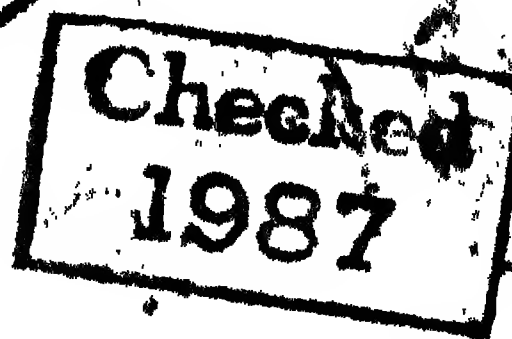
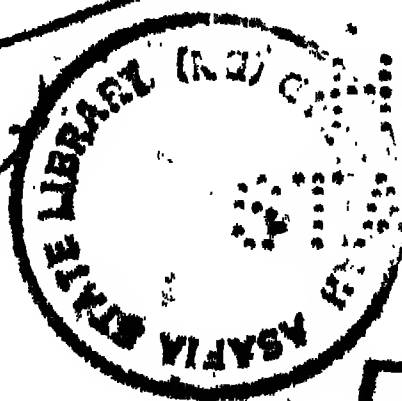


INTERNATIONAL LAW IN ANCIENT INDIA

BY

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PREFACE

THE subject of the following book was suggested to me by the Great War of 1914 which witnessed rather sweeping changes in the European Law of Nations. Some aspects of the study appeared in *The Modern Review* for 1918 and *The Commonwealth* for 1919. The book is published with some additions and alterations.

Though I am fully aware of the limitations of 'International Law' in Ancient India, I have chosen the title for reasons set forth in the Introductory Chapter. The period dealt with in the survey extends up to A.D. 500 with occasional references to conditions that obtained in later times. I have nearly finished collecting materials for the history of Mediaeval Indian Diplomacy which will be a companion volume to this book.

My deepest obligations are due to Dr. F. W. Thomas, Librarian, India Office, London, for the sympathetic interest he has evinced in the book by reading it in manuscripts and to Rājatantrapravīṇa Dr. B. N. Seal, Vice-Chancellor, Mysore University, who kindly read the proofs with me

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S. V. V.

TRICHINOPOLY,
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CHAPTER I

GENERAL FEATURES : SOURCES

Introductory

THE features of 'law' or positive law, as distinct from social laws and laws of morality, are, according to jurists like Austin, command, obligation and sanction. Law implies the existence of a superior authority which issues commands and carries them into execution; the obedience that is rendered to the 'sovereign' whose authority cannot be questioned; and the sovereign's right of enforcing the law on the subjects and compelling them to obey. Modern International Law is by all writers on the subject admitted to be not law in the Austinian sense, but a body of custom.¹ It lacks a superior power

¹ 'Strictly speaking International Law is an inexact expression and it is apt to mislead if its inexactness is not kept in mind' said the Lord Chief Justice in the 'Franconia' case. 'As between nation and nation there are no laws properly so called, though there are certain established usages, of which the evidence is to be found in the writings of persons who give the history of the relations which have prevailed between nation and nation.' Sir J. F. Stephen, *History of the Criminal Law of England*, ii. 41.

to enforce it on the nations that claim to have the necessary qualifications to be included within its fold. Only in the mediaeval period of the history of Europe could it be said that there was a superior authority recognized as being vested in the Holy Roman Pope or Holy Roman Emperor¹ to enforce rules regarding the conduct of the European nations in their dealings with one another. When the line of the Holy Roman Emperors grew weak and could not command the like obedience to their dictates, when the attempt at the institution of theocracy failed owing to the new learning and the reforming ideas in religion of the sixteenth and seventeenth centuries, there was no longer any unifying force ; and the growing recognition of the spirit of nationality rendered common subjection to a recognized superior impossible. Modern International Law, it has therefore been held, is the outcome, by gradual growth, of a series of enactments by individual nations, of decisions of individual prize courts, of state papers issued from time to time for the guidance of officers, and, later, of the decisions of arbitration courts, congresses and conventions. In later times a shadow of a

¹ Bryce, *Holy Roman Empire*, chap. xv.

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common superior was in evidence in the Hague Conferences which laid down rules of war, peace and neutrality, and which the great ' Powers ' of the world agreed to obey. But even the rules of The Hague were set at nought in many cases during the last world-wide conflagration. But why should the modern nations have agreed to abide by the decisions of The Hague? It was because these rules were the result of common consent, being based on principles of common humanity, ethics and morality; not that they recognized in the Hague tribunal a superior to enforce obedience to its rules. The Powers of Europe depended till now for the regulation of their international relations *inter alia* on the decisions of the Hague Conferences which proclaimed in solemn and dignified terms the rules by which the modern states were to be guided in their mutual intercourse. All the nations of to-day guaranteed the observance of the rules proposed at The Hague. The late war, however, was waged in contravention of the accepted laws of nations and in defiance of all notions of international morality. It has taken little account of the forbidden methods and instruments of warfare. It has laid its icy hands on combatants and non-combatants alike—on

nurses, famous works of art, field hospitals and cathedrals. It has shown a treacherous disregard of treaties and of guarantees of safety and security. Explosives have been used and noxious gases administered so as to carry inhuman destruction into the ranks of the foe. The practice among states is thus contrary to the high-sounding theories of publicists, prize courts, congresses and conferences.

With this record of cruelty among civilized nations of modern times, let us try to discover the rules of conduct that guided the states in ancient India in millenniums gone by. The subject is one beset with obvious difficulties. We should be on our guard against projecting modern ideas of political philosophy into a far-off age in the history of this vast continent where there was admittedly a great variety of local customs and usages. ✓ The historian of ancient India has more than once been charged with making broad generalizations unmindful of the changes in time, place and circumstance. It is good to bear this caution in mind ; but in respect of international principles the eternal laws of *Dharma* had been adhered to in all parts of the country through the vicissitudes of our political history. From the Himalayas to the Vindhya, from the eastern to

the western sea, through the length and breadth of Aryāvarta, the same law prevailed in Hindu states as recorded by Manu¹ and other givers of the sacred laws. But such statements of Manu and other law-givers are regarded by some as merely indicating an ideal rather than the actual state of things—as embodying principles of international *theory* rather than of international *practice*. Special consideration must therefore be bestowed by the historian of ancient India on the question how far the maxims and principles of sages were honoured in their observance by monarchs and statesmen. But some critics may go yet further. They may lay the axe at the foundation of International Law in India by denying the very existence of nations in ancient India.

We may steer clear of these difficulties by considering at the outset :

(1) Whether there were nations in ancient India ;

¹ *Manusmriti*, ii. vv. 21-22.

हिमवद्विन्ध्ययोर्मध्यं यत्प्राग्बिनशनादपि..... ।

आसमुद्रात्तु वै पूर्वात् आसमुद्रात्तु पश्चिमात् ।

तयोरेवान्तरं गिर्योः आयावर्तं विदुर्बुधाः ।

(2) Whether there was a general code of laws to regulate their dealings with one another;

(3) How far this body of doctrine was actually carried into execution.

Nations in India

Professor Sidgwick¹ has analysed the fundamental ideas that are implied in the modern concept of a 'nation' by defining it as an aggregate of a large number of human beings, conscious of belonging to one another, owning permanent obedience to a common government, and exercising control over a certain portion of the earth's surface.

From time immemorial there had been political units of organization, Aryan and non-Aryan, in ancient India. In the *Rig Veda*, the Aryas were split up into various tribes which were conscious of their unity in race, language, religion and civilization. The political unit was the tribe, *jana*² which consisted of settlements or groups

¹ *Development of European Polity*, Lect. i. The late Dr. V. A. Smith in a letter to the author, dated November 11, 1918, writes: 'Of course, there were nations in ancient India.'

² Prof. Hopkins (*Religions of India*, 26-27) means by *jana* a clan or horde. But there is clear indication in the Vedic texts to the effect that it means a 'people.'

of villages under a common government, which was some sort of monarchy, usually hereditary, sometimes elective. There were similar tribal organizations among the non-Aryas also. Some of the tribes had distinctive names,—Tritsus, Pūrus, Yadus, Anus, Turvasus and Druhyus.

The transition from tribal to territorial sovereignty is revealed in the *Yajur Veda*,¹ where the Aryan tribes appear as well-knit nations ruling over particular tracts of land in the Indo-Gangetic plain. The most famous of these are the Kuru-Pāñchālas, Kōsalas, Vidēhas, Kāśis, etc. The outer belt of nations—the Gāndhāras, Bāhlikas, and others are distinctly mentioned in the *Atharva Veda*.²

A third step in nation-building is disclosed in the Buddhist period. The political cohesion of the tribes which originally should have been

In *Rig Veda*, iii. 43. 5, Sōma is addressed as गोपतिर्जनस्य. *Ibid.*, iii. 53. 12, the Bharatas are भरतजन. *Ibid.*, viii. 6. 46 and 48, यादुजन and यादुः are the same.

Dasyu tribes are mentioned in *Rig Veda*, i. 174. 7 and 8. *Ibid.*, iv. 16. 13 and viii. 96. 17 refer to their organized hosts.

¹ E.g., *Śatapatha Brāhmaṇa*, i. 4. 1. 10-17, where the river Sarasvatī is the boundary between the Kōsalas and the Vidēhas.

² v. 22. 5-14.

loose is a remarkable feature of this age. The sixteen great Powers¹ of India were truly national states, whether monarchical or republican, and the nature of the relations among them in peace and war is in evidence in the literature of the time.² These may be said to have had in them all the elements of a nation. The existence in the same period of the Dravidian kingdoms in South India, though but dimly reflected in the Buddhist records,³ is clearly revealed in Pāṇini's⁴ time and in the Rock inscriptions of Aśōka.⁵ The less advanced tracts of the Dekhan had primitive organizations, but they

¹ These were the Magadhas, Kāśis, Kōsalas, Kurus, Pāñchālas, Avantis, Gāndhāras, Kāmbhōjas, Angas, Vrijjis, Chēdis, Vatsas, Matsyas, Mallas, Śūrasenas and Aśśakas.

² The relations of Kauśāmbi and Avanti, reflected in the Jātakas; of Magadha, Avanti and Kauśāmbi in Bhāsa's *Svapnavāsavadattā*; of Magadha and Kāmpilya referred to in the *Champayya Jātaka*, and of Magadha with Kāśi and Kōsala referred to in several Jātakas (Nos. 239, 283, 415 and 492 in Fausboll's edition), certainly belong to the times of Bimbisāra and Ajātaśatru who were contemporary with Gautama Buddha, whatever be the age of the works in which these relations are narrated.

³ E.g., the *Agochcha Jātaka*.

⁴ Sir R. G. Bhandarkar, *Early History of the Dekhan: Bombay Gazetteer*, vol. i, pt. ii, Sec. 3, pp. 138-39.

⁵ Rock Edicts ii and xiii.

soon became 'spheres of influence' of the Aryan states of the North or the expanding non-Aryan realm of Lanka in the South.

A fourth stage is marked by the formulation of the rules of conduct for the guidance of the various states of North India in their relations to one another. On the one hand we have those principles recognized as part and parcel of *Dharma* in the Smritis of Manu, Yājñavalkya and the rest; and on the other, those laid down by secular writers as in Kauṭilya's *Arthaśāstra* for the express guidance of kings and their ministers. These rules were expected to apply not only to the major states but to the tiny monarchies and republics of the period. Even when the 'imperial state' was evolved in the Nanda-Maurya and Gupta periods, the political individuality of the states within the empire was recognized and respected.¹

Indian International Law

International Law in India, was accepted by all Indian states, for it was based on

¹ 'The rules of International Law laid down by Kauṭilya imply that the various kingdoms subordinate to the empire enjoyed a great deal of local autonomy.'

See *Ancient History of Magadha: Indian Antiquary* for 1916.

Drocker, *History of Antiquity—India*, p. 223.

Dharma,¹ which regulated also the conduct of the individual in society. The *Dharma*, we are told, was to prevail all over India. It is true that in India as in Europe there was no single sovereign person who formulated rules of International Law and enforced them on the nations. Yet there was common subjection to the unifying force of *Dharma* due to the fear that violation of the rules would entail the wrath of the Almighty. Thus, in India the general rules of international conduct were already in existence and the nations had only to act up to them unquestioningly. One point of difference which becomes clear to us between ancient Indian International Law and the modern European Law

¹ *Dharma* has been variously defined :—

The Mitākshara has six kinds of *Dharma*, वर्ण, आश्रम, वर्णाश्रम, गुण, निमित्त and साधारण. The meaning of the word in this connection is probably 'duties' only.

Dutt means by the word, 'the totality of human duties and of human life in all its occupations, pursuits and daily actions'. *History of Civilisation*, vol. ii, p. 239.

Rhys Davids defines it as 'what it behoves a man of right feeling to do, or, on the other hand, what a man of sense will naturally hold.' *Buddhist India*, p. 292.

He defines it also as 'what is good form to follow', in his *American Lectures on Buddhism*.

The word would really mean an ethical ideal to which individuals as well as nations were to conform in their private, public and corporate life.

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of Nations is that whereas the rules of the latter are based on the 'common consent' of the states which came within the bounds of the law, in the case of the former the rules of conduct embodied in *Dharma* had to be implicitly obeyed by all nations in India, for they were based on a superior ethical sense. The Indian Law of Nations may thus be held to approach more to the conception of positive law than European International Law, though it was not administered by a human superior, as, for instance, in the Middle Ages in Europe by the Emperor or the Pope.

Relation of Theory to Practice

Lastly arises the question regarding the relation between theory and practice, in international relations in ancient India. It is generally found that against Manu, Kautilya and others is hurled the stale criticism that they depict only an ideal state of affairs which may not approach to the actuality of their time. It must be conceded, however, that these works formulated a code of laws which approached the actual to no less an extent than the Code of Grotius, or even the Code formulated at The Hague. Grotius was a theorist to as great an extent as Kautilya, and the rules of The Hague have been adhered

to no more closely than those of Grotius and appear no less fast to become theories. The recent Great War seems to prove that there can be only a *theory* of International Law and that no real relation subsists between theory and practice.¹ Again, it is unreasonable to suppose that even in the formulation of an ideal state of things the theorists would not be influenced by the circumstances in which they were placed. They must have had in their minds not only an ideal condition of affairs, but one which, taking into consideration the circumstances of their time, was likely in its practical working to conform to their political theories. Professor Keith² says of Kauṭilya: 'Kauṭilya was an energetic student of the *Arthaśāstra*, who carried his theoretical knowledge into practice and in the evening of his days enriched the theory by knowledge based on his practical experience.'

Śruti

The fundamental principle of legislation in India was that all laws were traceable to God,

¹ The Hague ideal was defied by the late war. See *Year Book*, 1923, Carnegie Endowment for International Peace, pp. 235-89.

² *Journal of the Royal Asiatic Society*, January 1916.

and the decrees of the Almighty were revealed to us in the Vedas by the saints and sages who had knowledge of them. Though they are primarily religious, a study of the Vedas leads us to the relations that subsisted between the Aryas and the Dasyus, who differed in religion, language, culture and civilization. It discloses to us the various instruments, agents and methods used in Vedic warfare. From the 'Battle of Ten Kings', the first battle fought in ancient India, may be gleaned the various principles which guided the tribal organizations of the age in their relations to one another. These rules must have been in a rudimentary stage, and there could not have been much fair fighting on either side.¹

Smriti

As the Aryas penetrated through the heart of Hindustan and began slowly to lay the foundation of the future Nation-States, the necessity was perhaps recognized for regulations regarding international conduct on an elaborate scale. Thus as time went on, legislation became more and more extensive, and the interpretation of the unwritten law of the Vedas contained in works of

¹ Cf. *Rig Veda*, i. 117. 16; i. 101. 1.

religious literature became the most important source of law. These Smritis¹ are treatises on law, containing among other things elaborate and interesting information regarding the rules of war, peace and diplomacy.

Epics and Purāṇas

The Epics and the Purāṇas embody and illustrate in the traditional history of India the actual conduct of the nations of the age in their dealings with one another. They abound in events and anecdotes which supply ample proof to the effect that the international code that existed among the nations of the age of the Epics and the Purāṇas was considerably advanced. These are a mine of information, to be judiciously used. The *Agni Purāṇa*, though a late compilation, has to be specially mentioned, for it contains more elaborate rules regarding diplomacy, spies of war, weapons in war, etc.

¹ According to Yājñavalkya there are twenty of these promulgators of Dharmaśāstras. These are:—Manu, Atri, Vishnu, Hārīta, Yājñavalkya, Uśana, Angira, Yama, Āpastamba, Samvartta, Kātyāyana, Brihaspati, Parāśara, Vyāsa, Sankha, Likhita, Daksha, Gōtama, Śātātapa, Vasishtha. The *Padma Purāṇa* has thirty-six names, including Baṇdhāyana, Gārgya, Nārada, Kāśyapa, Viśvāmitra, etc.

Secular Writers

Next have to be mentioned those sources which codify and embody the principles of Śruti, Smritis and Purāṇas, and no less important than these, the works of literature, and the writings of publicists of the type of Kauṭilya, Śukra and Kāmaṇḍaka. These are very important, as they are adaptations by secular writers of the already enunciated principles of international conduct in observance in their respective ages. The most prominent among these is the *Kauṭilya*¹ (*Arthaśāstra*), a master-work on the art of government depicting the politics and society of the pre-Mauryan period of Indian history. The *Arthaśāstra* is indeed a gazetteer containing an account of almost every phase of state activity. The *Śukranīti*² and the *Nītisāra* of Kāmaṇḍaka³ are of the same stamp as the *Kauṭilya* and contain an exposition of the many phases of the government of an Indian state. Among the secular works of less renown which throw some light on this particular aspect of Indian administration have to be mentioned the *Nītivākyaṃrita*, of

¹ R. Shama Sastri's Edition (1909), and Translation.

² J. V. Bhaṭṭāchārya's Calcutta Edition, and Translation by Mr. B. K. Sarkar published by the Pāṇini Office, Allahabad, in the *Sacred Books of the Hindus* Series.

³ J. V. Bhaṭṭāchārya's Edition.

Sōmadēva, and the *Nītiprakāśika*, works no doubt of a later age,¹ but specially important as disclosing to us the implements and methods of warfare in their epochs. Various other sources appear, e.g., the deliberations and decisions of *Parishads* (corresponding in a way to the decrees of prize courts and arbitration tribunals), and *Śiṣṭāchāra* (custom).²

Inscriptions and Foreign Travellers' Accounts

Lastly must be mentioned the data of the coins and inscriptions, and the accounts of contemporary travellers regarding the actual conduct of international relations. These, though rare, are invaluable to us, not only as embodying the various principles of the law of nations as adopted in the historic period, but as enabling us to judge the relation of theory to practice and as containing evidence which corroborates what has been embodied in tradition. The Edicts of Aśōka,³ for instance, reveal to

¹ The *Nītiprakāśika* is a work of the tenth century by Sōmadēva. The *Nītiprakāśika* is published by G. Oppert. The authorship is attributed to a Vaiśampāyana.

² Among the various sources of law this is mentioned in *Apaṇṭika*, i. 1, 2 and 3, and *Yājñavalkya*, i. 7.

³ Rock Edict iv runs as follows:

“Everywhere in my dominions the subordinate officials and the commissioner and the district officer, every five years must proceed on circuit as well for their

us what should be the relations of the King and the provincials and how best to carry out the principles of *Dharma*. The accounts of contemporary travellers should, by no means, be left out of consideration. Megasthenes,¹ for instance, has the following important observation :—

‘Whereas among other nations it is usual in the contests of war, to ravage the soil and then to reduce it to an uncultivated waste, among the Indians, on the contrary by whom husbandmen are regarded as a class that is sacred and inviolable, the tillers of the soil, even when battle is raging in their neighbourhood, are undisturbed by any sense of danger, for the combatants on either side waging the conflict make carnage of each other, but allow those engaged in husbandry to remain quite unmolested. Besides, they neither ravage an enemy’s land with fire nor cut down its trees. Nor would an enemy coming upon a husbandman at work on land do him harm, for men of this class, being regarded as public benefactors are protected from all injury.’

In this passage he not only points out one of the most humane principles of warfare in

business, as to give instruction in the *Dharma*.’ Here Smith translates *Dharma* as ‘law of piety’.

¹ McCrindle, *Megasthenes and Arrian*, Fragment 1.

observance in India—Devastation was forbidden—but also discloses to us how the actual rules of warfare in India were considerably in advance of those that obtained among the other nations of his time (300 B. C.). The bulk of the Indian people were agriculturists, and the immunity of the agriculturists from disturbance amounted practically to immunity to most of the non-combatant population. Much in the same strain runs the testimony of Yuan Chwang¹ who thus described warfare in India when he visited the country (seventh century A.D.) :—‘ Petty rivalries and wars were not infrequent, but . . . they did little harm to the country at large.’ These accounts of what the travellers actually found in India bear testimony to the fact that the principles of International Law in India were not merely theories, but that some of them at least were in actual working among the nations that existed at the time of their visit to India.

└ The general rules of international relations are seen to apply well in the case of the kingdoms of South India, Pāṇḍya, Chōḷa and Chēra. The earliest works of Tamil literature throw a good deal of corroborative light on the information

¹ Beal, *Buddhist Records of the Western World*, vol. ii.

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supplied by the Sanskrit and Buddhist works of the North. The *Kural*, one of the first and most important productions of the Tamil *Śāṅgam*, contains detailed regulations regarding the diplomacy, the general martial spirit, of the Tamil people and all that relates to the philosophy of war. From the *Puraṇānūru*, a work also of the *Śāṅgam* age, may also be gleaned some of those doctrines of international conduct which show that the nations of South India were not behind their sister nations of the North in regard to this matter.¹

¹ The *Kalingattupparaṇi*, probably of the eleventh century A.D., is a martial song. It describes the war that was waged by Kulōttunga Chōla against the king of Kalinga.

CHAPTER II

SUBJECTS AND DIVISIONS

Subjects

WE shall now pass on to the consideration of what classes of states were within the bounds of International Law in ancient India. Were there any communities to which the general rules of international conduct as laid down in works of literature and in actual observance in the various epochs of ancient history did not apply? Since International Law, as law in general in India, had its origin in *Dharma*, it may be said that all the Aryan states were bound to observe the various rules of *Dharma* in peace and war.¹

In the Rig-Vedic age certain principles of conduct appear to have been observed by the tribal communities in their dealings with one another. But as the Aryas of that age were militant and small in numbers, we should not expect the intertribal relations to be guided by quite lofty and humane motives. The Vedic

¹ *Manusmriti*, ii. 21-23.

Aryas are said to have used poisoned arrows to slay their adversaries in battle;¹ and a few cases show that wholesale slaughter was not quite unknown.² In the age of the Epics all the nations—whether Kōsala, Magadha, Kāmbhōja, Pāṇḍava or Kaurava—are found to accept certain principles of international morality which are laid down in the literature of that period. The same apply to later times also so far as the sovereign and independent states of India were concerned. But we meet with a few cases which, to all appearance at least, might be treated as exceptions to the general rule:—(a) The non-Aryan tribes especially of the Vedic and Epic periods. (b) The vassal, dependent or part-sovereign states which were evolved consequent on the formation of the Imperial states in the Nanda-Maurya and, later, the Gupta, period.

(a) In the early Vedic age when the Aryas and the Dasyus came into conflict, it could not be said that there was fair fighting on either side.

¹ *Rig Veda*, i. 117. 16.

² *E.g.*, *Ibid.*, vii. 18. 11.

अयोऽनयत् सधमा आर्यस्य गव्या

तानुभ्यः अन्नं ययुर्नृजः

Neither party shrank from the use of objectionable agents, instruments and methods of warfare. Both Aryas and non-Aryas appear to have been guided by more or less the same standards of inter-tribal morality. In the Epic period we notice that Rāvaṇa, Vibhīṣhaṇa, Sugrīva, Vāli, Virāṭa and various other non-Aryan chieftains were not behind the Aryas in their ideas of international obligations. To cite only a few instances: The conversation ¹ between Vāli and Rāma shows that the stealthy bolt of Rāma which shot Vāli dead was an offence against International Law even as known to the Vānara chief. Rāvaṇa spared the life of Hanumān because it was pointed out to him that he was an ambassador from Rāma and that the person of an ambassador was sacred and inviolable.² If Rāvaṇa's attempted seduction of Sītā was an act of war and morally reprehensible, it ought to be remembered that the Aryan prince had given Rāvaṇa a *casus belli* by mutilating his sister Śūrpanakhā. Kind hearts were not lacking among the Rākshasas, some of whose women were the friends of Sītā in her exile. A sense of moral duty among them is proved by the

¹ *Ramayana* : Kishkindha Kāṇḍa, Sec. 17, vv. 14ff.

² *Ibid.* : Sundara Kāṇḍa, 52.

desertion of Vibhīshaṇa and the wholesome advice of Kumbhakarna and Mārīcha to Rāvaṇa. The reluctant Mārīcha had to be driven on pain of death to take part in Rāvaṇa's wicked attempt at the seduction of Sītā. Kumbhakarna gave a moral discourse¹ on the wicked conduct of Rāvaṇa when he was awakened by the latter to fight against Rāma. A sense of political duty is proved by Kumbhakarna's adhering to Rāvaṇa, and of chivalry by the latter's refraining from the murder of Sītā though he found his overtures repeatedly rejected. These instances show that the non-Aryas were no strangers to the rules of political morality which had been recognized at the time. The Aryan bard may explain away the good points of his foes and the weaknesses of his own heroes. But all this testifies to the advanced character of the non-Aryas of the age.

(b) Next, as regards the imperial states of the Nanda-Maurya and Gupta periods. As we advance from the Epic age, we find there is gradual incorporation one by one of the smaller states, once independent and sovereign, for the formation of a 'Composite' state made up of a dominant

¹ *Ramayana*: Yuddha Kāṇḍa, 65. 2-21.

state and part-sovereign dependencies and vassal states. These latter were certainly states in which portions of the powers of external sovereignty were held by a dominant country. They were political communities in which the domestic rulers possessed only a part of the sovereign power, the remainder being exercised by the head of the 'Imperial State.' But these subject states, though deprived of some of the powers of external sovereignty, were entitled to the same rights and were under the same obligations in peace and war as the dominant state itself.¹

The history of ancient India teems with instances of the attempt at colonization of new lands—especially by the Aryas in non-Aryan territory. There are various examples of incursions of the Aryas into new tracts of territory, and of many a hard fight that had to be fought before the new lands could be acquired. Cases appear in the Epics of attempts at the settlement and colonization of new lands by the Aryas and non-Aryas alike. There were wars for dominion over the same tract of land either

¹ This is what Kautilya means by *सुलक्ष्य वा भवेद्राज्यम्*. He instances the Licchavis of Vésali who were already in the empire of Magadha. *Arthashastra*, p. 35.

uninhabited or inhabited by less powerful tribes. In this process of expansion of the Aryan dominion in the North, or the non-Aryan kingdom of Lanka in the South, we meet with the formation of spheres of influence or protectorates. Instances of these may be seen in Kishkindha, the realm of the Vānara tribe; Khāṇḍavavana and Hidimbavana inhabited by the Nāgas and other aboriginal races. It could not be said that these possessed the essential characteristics¹ that mark the type in modern times. They were probably not considered to be on a level with other independent or partly independent states, and do not appear to have been possessed of the same rights or subject to the same duties as others in war and peace.

Thus, among the states that were subject to International Law in ancient India we find three kinds or grades :—

(1) Sovereign and independent states² in each of the ages of the ancient history of India—Tribal as in the age of the Mantras; Territorial as in the period of the Epics; Political as in the

¹ Hall, *International Law*, i. 28.

² प्रभुत्व is the term used in the *Arthashastra* to denote a sovereign and independent state in normal times.

epoch of the Buddha; or Imperial as in the age of the Mauryas or the Guptas. Both Aryan and non-Aryan states appear to have been guided by more or less the same ideas of morality in their relations with one another.

(2) The part-sovereign, dependent states and the vassals of the Maurya and Gupta periods.

(3) Spheres of influence or protectorates which were for the most part bones of contention between the Aryan kingdoms of the North and centre, and the non-Aryan tribes of the South and of the borders.

Divisions

The accepted divisions of Modern International Law are war, peace and neutrality. In India also it may be said that these divisions held good in general. The three divisions do not, however, appear clearly in all the periods of ancient Indian history.

We find that in the age of the Mantras there were only two attitudes among the tribal communities of the time—war, and no war. These two divisions are clearly in evidence especially in the relations of the Aryas and the Dasyus. Many a hymn of the *Rig Veda Samhita* shows that there was constant warfare in the Vedic times,

not only between the Aryas and non-Aryas but among the Aryas themselves. The Aryan tribes had petty jealousies and quarrels which often broke out into internecine wars.¹ This naturally led the way for diplomatic alliances of some Aryan tribes with the Dasyus against their fellow-Aryas, and the Vedic bards called down the wrath of their deities on their foes, both Aryas and non-Aryas.² In course of time such political alliances assumed a permanent character. The 'Battle of Ten Kings' was fought between the Tritsus, a pure Aryan race, under their leader Sudās and a confederacy of ten kings of Aryan and non-Aryan tribes. We do not find, however, rules laid down in the *Rig Veda* regulating the rights and obligations of the tribes in peace or war; and in the actual conduct towards one another, the tribes do not appear to have been led by advanced notions of international morality. Thus the hymns disclose to us that, among the communities of the age, war, peace and alliance for war, were the only divisions of intertribal relations.

By the age of the Epics the Aryas had

¹ *Rig Veda*, viii. 18. 18.

² E.g., *Ibid.*, vi. 33. 3; x. 83. 1.

formed nations or states, with territories and organizations of their own. Our evidence shows that the Aryas expanded eastward from the Indus along the Ganges basin ; southward along the Indus to its mouth and far down to Cutch ; and west to east along the foot of the Himālayas. But in their advance they had always to meet the bold resistance of the non-Aryas. The actual conduct of the nations in warfare was certainly marked by a high standard of international morality in which the non-Aryas also appear to be much advanced. In the works of literature are codified the various rules of conduct which were intended for the guidance of the states of the age ¹ in their dealings with one another.

The relations in the Epic age were equally peaceful. Instances are by no means rare of alliances between non-Aryan and Aryan kings. The Pāṇḍavas were in their period of exile given a cordial reception at the court of Virāṭa. The league of Rāma with the Vānaras, an indigenous tribe in South India, and reinstatement of Sugriva on the throne of Kishkindha, is another illustration in point. The latter seems to offer us an instance of the creation of a sphere of

¹ *Mahābhārata: Śānti: Rājadharmā.*

influence in the South, by the Aryan kingdom of the North.

Another division of international relations that is clear to us in the same period, is diplomacy. Even in the *Rig Veda*¹ we find mention of the 'envoy'; but an ambassador used in the sense of a person accredited by one king or country to another appears to be a development of the Epic age. Diplomatic relations were carried on between courts in India during times of peace, and the principles of equity regarding this division of International Law, which guide the nations of modern times appear to have been largely followed by the nations of the heroic age. The Epics abound in instances which illustrate the sacredness and inviolability of the person of ambassadors, the errands on which they were sent and the treatment to be accorded to them.² They contain detailed regulations regarding the subject of diplomacy. 'As the ambassador is only a mouthpiece of others who send him',

¹ ii. 127. 9; which Wilson translates as 'Hence undecaying Agni, (sacrifices) wait upon thee as envoys (upon a prince)'.

² This immunity conceded to ambassadors and heralds is according to Dr. Oppenheim probably the oldest root of International Law. *The Future of International Law*, p. 1.

and as he advocates not his own cause but that of his masters, 'even if he be armed with weapons he should not be slain.'¹ As we advance, we find there was not only interchange of embassies in India, but some Indian rulers kept friendly relations with foreign monarchs.

Instances appear largely in the Epics and Purāṇas of neutralization of persons in war, There were advanced rules for the treatment of non-combatants. To cite only one instance: In the *Mahābhārata*² we read that the following were not to be slain in battle—'Those who

¹ ब्रूयन् परार्थं परवान् न दूतो बधमर्हति.

Ramāyaṇa : Sundara Kāṇḍa, 52. 21.

न्यस्तशस्त्री गृहीतो वा न दूतो बधमर्हतः.

Ramāyaṇa : Yuddha Kāṇḍa, 25. 21.

² Śānti : Rājadharmā, 100. 27-29.

प्रसूतान् तृषितान् शान्तान् प्रकीर्णान्नाभिघातयेत् ।

मौक्षेप्रयाणे चलन्ने पानभोजनकालयोः ॥

अतिक्षितान् व्यतिक्षितान् निहतान् प्रतनूकृतान् ।

अविज्ञान्यान् कृतारम्भान् उपन्यासात् प्रतापितान् ।

बहिष्कारानुपन्यासान् कृतवेस्मानुसारिणः ॥

पारम्परीगतं द्वारे ये केचिदनुवर्तिनः ।

परिचर्यायतो द्वारे ये च केचन वर्मिणः ॥

are sleeping, thirsty, fatigued, or insane; those who are flying or walking along the road; those who are engaged in eating or drinking; those who have been mortally wounded or extremely weakened by wounds; those who are in fright; those who are unfit for further action; those who are struck with grief; and those who are camp followers or doing menial services.' Thus in addition to war two other divisions of international relations appear in the Epic age in particular—Diplomacy and Neutralization.

Mānava and other Dharmaśāstras of the same stamp reveal to us rights and obligations in war, peace and diplomacy. Rules were framed by these governing the conduct of Indian nations in war. Āpastamba,¹ for instance, has: 'The Aryas forbid the slaughter of those that have laid down their arms, of those that beg for mercy with dishevelled hair, and joined hands, and of fugitives.' Manu² speaks thus of the appointment of an ambassador:—'Appoint one who

¹ ii. 5. 10-11.

² vii. 63. दूतं चैव प्रकुर्वीत सर्वशास्त्रविशारदं
अज्ञानाभयमोदयं etc.

is learned in all *Śāstras*, clear, intelligent and born of noble family, one who can read *ingita* (intention), *ākāra* (attitude) and *chēshṭa* (behaviour).

Kauṭilya¹ divides foreign rulers under four heads :—

(a) *Ari* (enemy), (b) *Mitra* (friend), (c) *Madhyama* (mediator), and (d) *Udāsīna* (neutral). *Ari* and *Mitra* are again either natural or artificial. A watchful (*Madhyama*) king was to consider his immediate neighbour a natural foe. Other states were to be considered in relation to their situation in the circle of states, proceeding from the given state as centre, step by step, to the outer circumference. The second, fourth and sixth states from him were likely to be inimical to him. The next king beyond the neighbour, whose friendship has been inherited from father and grandfather, was his natural friend. The

¹ *Arthashastra*, pp. 258-60. *Arthashastras* and *Dharmaśāstras* agree on the point.

That there was a well-organized department of foreign policy is clear from the occurrence of such names as *Sandhivigrahika* and *Mahāsandhivigrahika* (Secretary and Chief Secretary of foreign affairs) in the *Allahabad Pillar Inscription* of Samudragupta.

These are not stray terms, as is clear from the continuance of the offices in the year A.D. 726. (See *Indian Antiquary*, vol. ii, p. 27).

third and fifth states from him were likely to be friendly.¹ A ruler who 'is merely antagonistic and creates enemies' was a factitious enemy. A king whose aid was required by another for temporary purposes of self-preservation was an acquired friend of the latter. A *Madhyama* was one capable of giving aid to both the contending parties or defending one of them from invasion. A ruler who was between two enemies, powerful enough to give aid to either of them or to resist either of them or a *Madhyama*, was neutral (*Udāsīna*). But, as the term implies, he was indifferent, and inclined to give help to neither and avoid involving himself in hostilities.² Kauṭilya

¹ *Arthaśāstra*, p. 315.

मध्यमस्यात्मतृतीया पञ्चमी च प्रकृती प्रकृतयः ।

द्वितीया च चतुर्थी षष्ठी च विकृतयः ।

तच्चेदुभयं मध्यमोऽनुगृहीयात्, विनिगीषुर्मध्यमानुलोमस्यात् ।

न चेदनुगृहीयात् प्रकृत्यनुलोमस्यात् ।

² तस्य समन्ततः मण्डलीभूता भूम्यन्तरा अरिप्रकृतिः ।

भूम्यनन्तरं प्रकृत्यमित्रः तुल्यामित्रजनसहजः ॥

तस्मान्मित्रं अरिमित्रं मित्रमित्रं अरिमित्रमित्रं ।

says, if a *Madhyama* be on good terms with both the inimical and the friendly states of a king, that particular ruler should be friendly with him; otherwise he should ally himself with the enemies.

According to Kauṭilya, the divisions of international relations correspond roughly to his divisions of the rulers. These are :—¹

(1) *Vigraha* (war), (2) *Sandhi* (peace), (3) *Āsana* (neutrality). He says 'whoever is inferior to another shall make peace with him; whoever is superior in power shall wage war; whoever thinks "no enemy can hurt me, nor am I strong

अरिबिजिगोष्धोः भूम्यन्तरः संहतासंहतयोः

अनुग्रहसमर्थो निग्रहे च असंहतयोः मध्यमः ।

भूम्येकान्तरं प्रकृतिमित्रं मातापितृसंबन्धं सहजं ।

विद्वद्वो विरोधयिता वा कृत्स्नः ।

धनजीवितहेतोः आश्रितं कृत्रिमं ।

अरिबिजिगीषुमध्यानां बहिः प्रकृतिभ्यः बलवत्तरः संहतासंह-
तानां अरिबिजिगीषुमध्यमानां अनुग्रहे समर्थः निग्रहे चासंहताना-
मुदासीनः ।

¹ *Arthashastra*, p. 261. Vāṭavyādhi holds that only two attitudes exist—war and peace.

enough to destroy my enemy" shall observe neutrality.'¹ To these three divisions he adds three minor ones :—*Samśraya* (alliance), *Yāna* (preparation for fighting or expedition), and *Dvaidhī-bhāva* (double policy).² The last is an attitude that may reasonably be expected of Kauṭilya and similar secular writers, because the foreign policy they formulate is for an Imperial state for the safety of which it was necessary that it should be ever prepared for war against the other less powerful states which it may have incorporated, and which therefore might turn out to be insurgents at any time and stir up a coalition to shake off the yoke. The term ³ has been defined by him thus : 'Whoever thinks that help is necessary to work out an end

¹ *Arthaśāstra*, p. 261.

परस्मात् होयमानः संदधीत ।

अभ्युच्चीयमानो विगृहीयात्

‘न मां परो नाहं परमपहन्तुं शक्तः’ इत्यासीत्.

² *Ibid.*, p. 261.

³ सन्धिबिग्रहोपादानं द्वैधीभावः

सहायसामर्थ्यकार्ये द्वैधीभावं गच्छेत् ।

Arthaśāstra, p. 261.

shall make peace with one and wage war with another.' This attitude shows us how practical Kautilya was as a statesman. It may therefore be said that rights and obligations regarding alliance and diplomacy which according to Kautilya are to be included in peace, along with war, peace and neutrality, were defined during his time.

The accounts of foreign travellers unfold the rights and obligations that were actually in existence in times of war. They throw some light on the weapons and army organizations at the time of their visit to India.

The *Agni Purāṇa*¹ lays down rules regarding war and diplomacy. It gives detailed description of the instruments and methods of warfare. The various qualifications, duties and immunities of ambassadors are also set forth in the work. From the secular works on polity such as the *Sūkran̄ti* also may be gleaned all the divisions above mentioned—war, peace, alliances and diplomacy.

From the above account of the divisions of International Law it will be clear that war and peace were conditions prevalent throughout. Alliances which were made in peace or for purposes of fighting were common even from the time of the

¹ E.g., chaps. 230, 232, 236, 240.

Rig Veda. This aspect of International Law will be discussed under war, and under peace. Diplomacy in the sense of the accrediting of envoys from one court to another for political and international purposes is a feature that dates only from the Epic age, and most of the later works clearly include this as one of the divisions of foreign relations. As the system of interchange of ambassadors was generally stopped on the eve of two states entering into hostilities, this subject will be included and fully dealt with in the broader division of Peace. It has been noted that along with the rules of war and peace appear also some of neutrality, the latter being especially a feature of the age of *Kautilya*. This branch of International Law is not dealt with in any detail in the ancient works on polity. The *Arthaśāstra* is the only source of information on this head. Thus we may proceed to deal with the subject under the broad divisions of :—

(1) Rights and obligations in peace, including alliance and diplomacy.

(2) Rights and obligations in war.

(3) Rights and obligations as regards neutrality.

CHAPTER III

GENERAL RIGHTS AND OBLIGATIONS IN PEACE

THE rights and obligations by which states in ancient India were guided in times of peace form probably the most difficult aspect of the study of Indian International Law. This subject has received little attention in the mass of ancient literature, though there are elaborate regulations to guide the Indian states in the conduct of war. It will perhaps be said that there need be no regulations for the conduct of states in their dealings with one another in normal times ; still, there are certain features of international behaviour which are too important to be left out of consideration, viz. diplomacy and alliances, and the relation of a particular state to the property and subjects of other states. The paucity of materials here is noteworthy. The information on the various heads has to be culled, and in most cases inferred, from the incidents recorded in works of literature. We have fuller and more detailed knowledge of one phase, viz. embassies and treaties in peace and after war. Even the

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treatment of diplomacy as a branch of international conduct is in evidence only from the age of the Epics. Here as well as in other sections of International Law, the work of Kautilya forms a landmark. It is only from the 'historic' period that we have any regulations at all regarding the principles to which in normal times a nation had to conform in its relations with the persons and property of the other independent states in India.

The rights and duties in times of peace, of a state which came within the fold of Indian International Law may be considered, as they have been by western writers on International Law, under the head of Rights and Obligations connected with (a) Independence, (b) Jurisdiction, (c) Property, (d) Equality and (e) Diplomacy.

(a) *Rights connected with Independence*

Independence has been defined as the right of a state to manage all affairs, internal or external, without control from other states.¹

¹ Lawrence, *International Law*, pt. ii, chap. i.

Kautilya says that the troubles of a king are partly internal and partly external. His ideal of an 'independent' state is clear from the disadvantages of foreign rule (अशुभ) which he mentions on p. 323.

The subjects of every state were conscious of their being subordinate to a higher sovereign authority. 'The multitude obey the words of this sovereign and they cannot command him.'¹ Throughout ancient Indian history the king was the administrative head of the state, for it was he 'who sustains realms',² and no one should disregard this head³ of the executive as being merely a human being. He had the right of issuing laws suited to the needs of his state, subject, of course, to the all-pervading *Dharma*. Though in early Vedic literature 'there is no reference to the exercise of the legislative activity of the king,' in later times,

¹ *Mahābhārata*: Śānti: Rājadharmā, 58. 144.

स्थापितं च ततो देवैः न कश्चित् अतिवर्तते ।

तिष्ठत्येकस्य च वशे तं चेदं न विधीयते ॥

² *Satapatha Brāhmaṇa*, ix. 4. 1. 3.

³ *Mahābhārata*: Śānti: Rājadharmā, 67. 40.

नहि जात्वमन्तव्यो मनुष्य इति भूमिपः ।

This same idea pervades the whole of Indian political philosophy. Here we have a theory of sovereignty corresponding to the *Divine Right Theory* of later ages in European history. The king combines in himself the qualities of the Gods Agni, Indra, Sōma, Varuna and Yama. *Rāmāyana*: Ayōdhya Kāṇḍa, 40; *Manu*, vii. 8. See also *Subhanti*. Samudragupta is a 'God dwelling on the earth' in the *Allahabad Pillar Inscription*.

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we find, 'it is an essential part of his duties.'¹ Royal proclamations are common from the time of Aśoka, whose edicts stand as glorious monuments of the legislative activity of that monarch. It should be conceded, however, that there was little necessity for any new legislation in India in addition to what was contained in the accepted sources of law already in existence.

The head of each state, be it a monarchy or a republic, managed its internal administration in his own way.² He had the right of taking certain revenues from his subjects for the expenditure of

¹ *Vedic Index of Names and Subjects*, vol. ii, p. 214. Kauṭilya mentions the sources of law as *dharma*, *charitra*, *vyavahāra* and *rājaśāsana*.

² For the duties of princes *vide*, e.g., *Sukraniti*, chap. i. Kauṭilya is not oblivious of the existence of republics which were independent and had their own officers. See *Arthaśāstra*, xi. संघवृत्तम्.

Buddhist works make it clear that the independence of these republics, however tiny, was real and was effectively exercised in matters of domestic and even of foreign policy. *Sutta and Vinaya: Sacred Books of the East*, ix. pp. 3 and 4; xiii. 277 and 307; xx. 408.

We have reference to 'Kshatriya republics' in *Rajanya janapada*. (Rapson, *Indian Coins*, pp. 11-13. Plates III. 20 and IV. 1.) Other independent republics which issued coins were the Udumbaras and Kupindas of the first century B.C. and the Kulūtas of the first century A.D.

The characteristics of *Ganas* or republics are set forth in the *Mahābhārata*: *Sānti*: *Rājadharmas*, 107.

the realm, as is evidenced by the Dharmaśāstras, Nītisāras and the Epics. He constituted the supreme court of judicature. He was the chief commander of the forces of the state, had the right of leading the army in person to the field of battle, and call upon his subjects to fight in times of war against other states. The head of a particular state could enter into alliances with other states, conduct wars and conclude treaties. He had the right of accrediting ministers to foreign countries on matters of external policy, and in turn receive ambassadors sent to him.

(b) *Rights connected with Jurisdiction*

Generally speaking, a state had jurisdiction over all persons and things found within its territory. No doubt, it recognized private property owned by individuals who were allowed to enjoy the fruits of their toil. The travellers passing through the territory of a state were subject to its criminal law. The state had jurisdiction over property within its limits, both real and personal.¹ As we read in the *Arthaśāstra*² it had also

¹ E.g., *Mahabharata*: Śānti: Rājadharmā, 76.

² II. 28, pp. 126-28.

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absolute jurisdiction over the vessels that visited its ports and had the right of dealing with piracy on its coasts. The ships that passed along a state's coasts were subject to the local law, tolls and jurisdiction. In the reign of Chandragupta Maurya, when the admiralty was organized as a separate department of the military administration, various rules were framed regarding the conduct of ships that sailed along the ports of the state. The officers in charge could doom pirate vessels to destruction. They could seize the ships that were passing the port on their way to an enemy destination. They could take to task vessels that did not observe the rules in ports and harbours.¹ It is thus clear from the *Arthaśāstra* that a state had the right of issuing regulations to be observed by the ships on its coasts. It had the right of collecting tolls and probably possessed also what is now known as the right of 'tonnage' and 'poundage.' The state also owned ships which were let out on hire for the transport of passengers and merchandise.²

¹ *Arthaśāstra*, p. 126. हिंस्रिका निर्घातयेत् । अमित्रविषया-
तिगाः पण्यपत्तनचारित्र्योपघातिकाश्च ।

² *Ibid.*, p. 126. 'राजानौमिः.'

(c) *Rights connected with Property*

The territorial possessions of a state in ancient India consisted of land and water, and rivers and lakes within its land boundaries. It possessed the proceeds of mines, forests, public works, pasture lands, and trade-routes that came within its jurisdiction.¹ The limits of the territory of a state were marked by natural features, such as rivers, mountain ranges and sea coasts.² Racial and linguistic differences between one set of people and another seem also to have operated, though not to so great an extent, in determining the boundaries of a state's territory.³

¹ *Manu*, vii. 127, 130-32; *Gautama*, x. 24, 27; *Rāmāyana*: Kishkindha Kāṇḍa, 18. 6.

² *Aitareya Brahmana*, vii. 4. 1. The Gantak and the Kūsi were the natural boundaries of the Videhas; the Ganges and the Gantak those of the Kōsalas; the Uttara Kurus lay beyond the Himālayas; 'Aryāvarta' is defined in the Smritis as the portion of India lying between the two mountain ranges of the Himālaya and the Vindhya and stretching from the eastern to the western sea.

³ E.g., The Magadhas spoke Māgadhi. The Śaurasenas spoke Śūrasēni. The Maharattas were the people that spoke Mahārāshtri. The Pāṇḍyas were the people in Pāṇḍyā. The Tondaimans were those of Tondaināḍ. An instance of racial differentiation is found in the Mūshakas whose habitat changed frequently until they settled finally in the west coast. The *Nathigumpha Inscription* of Khāravela mentions them as being directly to the west of Kalinga. See *Journal of the Bihar and*

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There were various modes by which a state could acquire new territory. The oldest of them, and the most frequently employed, was colonization and settlement. From the age of the *Rig Veda*, the Aryas are seen to penetrate into the surrounding jungle tracts which were either uninhabited or inhabited by less civilized tribes. The *Rāmāyana* tells the story of an attempt at the colonization of South India by the Aryas of the North, and shows how they faced the resistance of the non-Aryan powers of the South in the process of advance into new tracts of territory. Before the age of the Epics, the Aryas had advanced to the region of the Jumna and the Ganges; and this onward movement is clearly illustrated by the greater geographical knowledge that is revealed in the Brāhmaṇas. Coming to later times, the colonization of Ceylon by Vijaya from Bengal and that of Java and other foreign countries are historical examples of this process of acquisition of new territory.¹

Orissa Research Society for 1917, pp. 425-507 and *Journal of the Royal Asiatic Society* for 1922, pp. 83-84.

¹ Turnour, *Mahāvamsa*, chaps. 6-8.

The illustrations in Mr. Mookherjea's *Indian Shipping* (pp. 44 and 46) are interesting in this connection.

For discussions on whether the reliefs of Borobudur represent ships setting out to Java see *Journal of the*

A second method of acquiring new territory was by conquest. *Digvijaya* or the conquest of the four quarters, on which successful kings set out from time to time is clearly illustrative of the fact that conquest was one of the most important methods of territorial expansion. In the *Arthaśāstra*¹ acquisition of new lands by conquest is regarded as very desirable; and later kings such as Samudragupta and Harsha, were great conquerors.

Cession and purchase as modes of territorial extension were rather uncommon. In Kauṭilya's work² we find examples of these employed as conditions of treaties which concluded the wars among the states of his time. An instance of gift of territory by one state to another is offered in the ancient history of Magadha.³ Bimbisāra,

Royal Asiatic Society for 1917 and *Modern Review* for 1918.

Regulations as regards colonization of new lands are found in the *Arthaśāstra*, pp. 293-96.

¹ p. 293.

एवं विधेयः पृथिवीं लभमानोऽर्थशास्त्रवित् ।

विशेषमधिगच्छति ॥

² p. 296.

गुणवतीमादिर्या वा भूमिं बलवता क्रयेण etc.

³ *Vaṭṭhakaṭṭhaka Sūkara Jātaka*.

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the king of Magadha, got some villages in Kāśi as gift from the king of Kōsala whose daughter he had married. This, we are told, was revoked after Bimbisāra's death, and his son Ajātaśatru had to wage a war with the king of Kōsala for the recovery of the lands which had once been secured as a gift. The cession of Ariana by Seleucus Nikator to Chandragupta is another case in point.¹ An earlier instance of the idea of gift is to be found in the *Mahābhārata* where the Pāṇḍavas ask for a small piece of land from the Kauravas who had dominion over almost the whole of *Madhyadēśa*. A state in ancient India in exercising its powers over the territory belonging to it, treated new acquisitions as

i. Protectorates or Spheres of influence, such as the 'border peoples' of the Maurya empire.

ii. Dependencies or Vassals, such as the peoples conquered by Samudragupta.

Obligations of a State regarding Independence, Jurisdiction and Property

But there were various obligations which the head of a state had to fulfil, if he should enjoy the

¹ Smith, *Early History of India*, pp. 148-149.

rights above mentioned. There were limitations to the power of the sovereign, both internal and external. In the *Mahābhārata* the king is made to say, 'I shall always have in mind the welfare of the state. I shall always abide by the law and the rules of ethics and politics prescribed by the sages. I shall never be arbitrary'.¹ The *Sukranīti* mentions the protection of subjects as a primary function of the king.² There were also the popular institutions and the councils of ministers, which the monarchs consulted and which proved to be a check on the absolute power of the sovereign.

As regards external obligations :

First, there were the assemblies of kings of different grades of wealth and power, who met to decide questions of common policy in war and peace. An instance of such royal assemblies is seen in the *Mahābhārata* where, before the actual outbreak of the hostilities between Virāṭa and the

¹ *Mahābhārata* : Śānti : Rājadharmā, 57. 1.

एतत्ते राजधर्माणां नवनीतं युधिष्ठिर. (Protection is the very cream of kingly duties).

² *S. 14*.

दुष्पत्य परस्मोर्धर्मः प्रजातां परिपालनम् ।

See also *Ramayana* : Bala Kāṇḍa, 17. 6.

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Kauravas, an assembly met for deliberation on the conduct of the war. The kings who sat in council were expected to follow the general rules of courtesy and etiquette. They were to take their places in the order of their rank and affluence, and great importance was attached to the observance of ceremony and decorum.¹

Secondly, a king was bound to observe the terms of the alliance or the treaties that he may have entered into with others. Such alliances were common, even as early as the age of the *Rig Veda* and appear more frequent as we proceed. In later times² alliances are found not only between states of equal power and resources, but between those of unequal power and extent of territory. In these the more powerful of the parties had some advantages over the inferior states seeking the alliance. Especially, the smaller state in an alliance could not infringe with impunity the rights and duties by which it was bound. We do not meet with any rules as to the penalty to which a state which

¹ E. g., see *Sutranti* for order of precedence in the Council hall, chap. i, ll. 705-27. For the order in which the Lichchavi chieftains of Vesali were seated by their special officer—*Asanapratipala*. See *Sanskrit Literature of the East*, xx. 408.

² E. g., *Harsha Charita*, chap. vi.

violated the terms of the alliance was subjected. In most cases, non-fulfilment of the conditions of a treaty implied not only the odium of the other states, but war against it by the others and its possible extinction.¹

Thirdly, there was the obligation that was more or less self-imposed by all kings, specially Kshatriya princes of ancient India, viz. the duty of fighting for redeeming the cause of righteousness or to preserve the 'balance of power' among states.² The Pāṇḍavas declared war against Jarāsandha, king of Magadha, when he had with his devouring ambition subjugated all kings of the North and was about to crown himself the Emperor.³ This war may in the language of modern International Law be said to have been waged to keep up 'the balance of power' among the states in North India. The intervention of Rāma⁴ in the quarrel between Vāli and Sugrīva

¹ Among the European nations we find that the method by which a nation that had infringed the ordinary rules of international conduct could be punished in the last instance was by the declaration of war on it by the rest.

² The head of every state was certainly bound to protect his country from unnecessary intervention of other powers, to keep up its own sovereignty, as well as on the principle of self-preservation.

³ *Mahābhārata* : Sabhā Parva, 15.

⁴ *Rāmāyana* : Kishkindha Kāṇḍa, 16 and 17.

was with a view to uphold the righteous cause, that of Sugrīva, against his wicked and powerful brother. Fighting to redeem the cause of right was enjoined as a duty on all Kshatriya sovereigns, and this is clear in the *Bhagavat Gīta*¹ where the Lord Śrī Krishna expounds to Arjuna the duty of all Kshatriyas to fight for the right cause, irrespective of the possibility that it might lead to the destruction of one's own race. This was on the ground that the Kauravas were cruel, and had not been following the path of *Dharma*.

Fourthly, there were limitations on the jurisdiction of a sovereign over the property and persons found within the limits of his state. Religion was a great force in the moulding of society and politics in ancient India; and the protection of all institutions from ravages was certainly a primary duty observed by all righteous sovereigns. The subjects of every state were allowed the right over their property, the kings being guided here by the eternal rules of *Dharma*. Unnecessary interference with, and seizure of the rights of private individuals over their property, were regarded as provoking the wrath of

¹ E. g., ii. 31 : धर्मो रक्षति यद्धर्मो ह्यन्यथा न विधीयते ।

the Almighty. In the *Aitareya Brāhmaṇa*¹ the king is made to take the oath thus: 'Whatever good I may have done, my position, my life, and my progeny be taken from me if I oppress you.' A monarch who seizes the property of his subjects would not be performing the duties of a king as enjoined in the *Mahābhārata*.² The head of a state was bound by his position to protect the rights of person as well as property of his subjects. Even as early as the age of the *Rig Veda* where the king is styled *Gōpatih Janasya*³ this right of the subject for protection at the hands of the ruler was recognized.

Lastly, there were limitations on the jurisdiction of the head of a state over certain kinds of persons passing through its territory. Among these we find three classes:

- (a) Emigrants from foreign lands.
- (b) Ambassadors accredited to the particular country from another.
- (c) The foreign sovereigns and their suite travelling within the limits of the state's territory.

¹ viii. 4. 1. 13. cf. 'The king is the upholder of the *Dharma*' (*Śatapatha Brāhmaṇa*) and 'Law is the power of the *kshatra*' (*Bṛihadāraṇyaka Upanishad*).

² Śānti : Rājadharmā, 24-27.

³ *Rig Veda*, iii. 43. 5.

(a) Megasthenes¹ bears testimony to the kind treatment that was given by the government of Chandragupta to the foreigners that had migrated to the capital city of Magadha. Of the various departments of his administration one was allotted to the treatment of foreigners. 'Those of the second department attended to the entertainment of foreigners. To these they assign lodgings and they keep watch over their modes of life by means of those persons whom they give to them for assistants. They escort them on the way when they leave the country, or in the event of their dying, forward their property to their relatives. They take care of them when they are sick, and if they die bury them.' We have no means of knowing if the condition of affairs as depicted by Megasthenes prevailed to any extent before Chandragupta's reign. We may reasonably assume that the institution of a special department of the administrative machinery for looking after the foreigners must have been the adoption of a practice long in vogue. Probably an earlier illustration—though it may be a stray one—of generous treatment given to foreigners may be seen in the case of the Pandava

¹ McCrindle, *Megasthenes and his time*.

in the country of Virāṭa in their period of exile. They were received by the king with the characteristic instinct for kindness of the Orient.

(b) There is good record in the literature of ancient India of the various duties and immunities of diplomatic ministers. The person of an envoy was inviolable and sacred, he being the mouthpiece of his sovereign.¹ Whatever may be the mission on which he was sent, an ambassador could not be put to death even if he was guilty of serious crimes.² The supreme courtesy with which kings in ancient India treated the ambassadors from foreign rulers is clearly indicative of the great privileges that this class of ministers was allowed to enjoy. A detailed treatment of the subject will follow.

(c) After these accounts about the treatment of foreigners and the ministers that represented the kings in foreign states, it were needless to dwell on the treatment likely to have been given to foreign sovereigns and their suite.

¹ *Rāmāyaṇa* : Sundara Kāṇḍa, 52. 21.

ब्रुवन् परार्थं परवान् न दूतो वधमर्हति ।

² *Ibid* : Yuddha Kāṇḍa, Sarga 25 *cited infra*. See chap. iv. As regards practice under this head in historical times see Kālidāsa's *Mālavikāgnimitra* which refers to the diplomatic relations of Vidarbha *rāja* with Agnimitra the Śunga prince and viceroy.

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travelling in another country by the king of the latter.

Actual instances of the progress of kings through other states are available in early South Indian history. When Śenguṭṭuvan Chera wanted to cross the 'Ganges' the self-governing tribes near the river (really the Tungabhadra) helped him across. We read similarly of Karikāl Chola that he was welcomed in these regions and brought back a large number of *Ganga* families whom he settled in Tonḍaimaṇḍalam. Stories of these transactions are found not only in later Tamil works like the *Tonḍaimaṇḍala Śatakam* but in the earlier works of Śāṅgam age like the *Śilappadikāram* and the *Pattuppāṭṭu*. In much earlier times we hear of the reception of foreign princes on occasions of *Swayamvaras*, for instance, those of Indumatī and Sītā, or of sacrifices like the *Putrakāmeshti* of Daśaratha to which, we are told in the *Rāmāyaṇa*, the contemporary kings were invited. Such occasions would be unthinkable, unless there was a body of custom ensuring the immunity of kings in the dominions of others.

There were certain other obligations which are met with in the age of the Mauryas as against the rights which a state enjoyed over the ships in its ports. Whenever any weather-beaten

arrived at the port, the customs officer was to protect her like her father. He was to exempt from toll or accept half the usual rates from ships that had been troubled in the waters. He was to allow them to sail away from his ports when the season for setting sail approached.¹

*Rights and Obligations connected with
Equality*

In the account of the evolution of the concept of the 'nation' ² in ancient India it was noted that in the Vedic period the state was tribal though speeding fast towards settlement on land; in the Epic age distinctly territorial; and in the Buddhist epoch political in the fullest sense of the term. We also saw that the Maurya period witnessed the growth of the imperial states in India. In each of these four stages there were some units of political organization which were decidedly superior to the rest. In the Vedas, the five tribes (*Pañcha jana*) were apparently the most

¹ *Arthaśāstra*, pp. 126-28.

मूढबालाहता तां पितेव अनुगृहीयात् ।

उद्वेकप्राप्तं पण्यं अशुल्कं अर्द्धशुल्कं वा कुर्यात् ।

तथा निर्दिष्टाश्चेताः पण्यवस्तुनयात्राकाशेषु प्रेषयेत् ।

² See ...

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prominent of the communities that dwelt in the region of the seven rivers (*sapta Sindhavah*). In the Epics, some kingdoms are seen to stand out prominently from among the others. These were the Kurus, Pāñchālas, Videhas, Kōsalas, and Kāśis. In the Buddhist age, of the sixteen *Mahājanapadāḥ*, all were certainly not of the same greatness and power. In the imperial Maurya period, the kingdom of Magadha stood out dominant stretching its arms, as we read of Aśōka's empire, on the north-west to the Hindu-kush mountains, on the east over the whole of Bengal as far as the mouth of the Ganges where Tāmralipti was the principal port, and on the south approximately as far as a line drawn from the mouth of the Pennār river through Cuddappah to the Kalyāṇapuri river on the west coast.¹ This implies the reduction to the position of dependencies² or vassals under the imperial jurisdiction, of states which might have been once independent. From the account given above, it

¹ Smith, *Early History of India*, pp. 161-63.

² This is how I would render the *kida rāja* in the Rock-Edict xiii of Aśōka. The emperor refers here to Visha, Vajri, Yōna, Kāmbhōja, Nābha, Nābha-pāṇḍya, Bhōja, Pitinika, Andhra and Pulinda peoples, some of whom at least could hardly be regarded as treated on equal terms with the Maurya emperor.

is clear that not only were the states in ancient India unequal in extent and greatness at different periods, but those in a particular epoch were not all of equal size or power. Some certainly dominated over the others.

Corresponding in a way to the development of the state, we have various grades of kingship according to power and affluence. Great importance was attached in royal councils to the dignity and decorum to be observed in the treatment given to the kings assembled. It corresponded to the particular grade to which a king belonged. In the Vedic hymns ¹ we come across terms that denote three grades of kingship—*Samrāt*, *Adhirāt* and *Ēkarāt*. In the Brāhmaṇas and the Epics ² we have in addition to the above, *Svarāt* and *Virāt*. The *Aitareya Brāhmaṇa* ³ gives the following list of grada-

¹ *Rig Veda*, iv. 21. 1; iv. 37. 3; viii. 19. 32; x. 128. 9; *Atharva Veda*, iv. 10. 24.

² *Taittiriya Āraṇyaka*, i. 31. 6; *Satapatha Brāhmaṇa*, xi. 3. 2. 106.

³ अहं सर्वेषां राजा श्रेष्ठं अतिष्ठां परमतां गच्छेयं साम्राज्यं भोज्यं स्वराज्यं पारमेश्वर्यं राज्यं महाराज्यं आधिपत्यं अहं समन्त-पर्यायीस्यां सार्वभौमः सार्वभूषण आन्तादापराधीति पृथिव्यै समुद्रपर्यन्ताय एकराडिति. viii. 1. 39.

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tions : *Rājya*, *Samrājya*, *Swārājya*, *Vairājya*, *Mahārājya* and *Ādhipatya*. In Kautilya's work we meet with some other names ; e.g., *Maula*, *Chakravarti*. The *Sukranīti* has the following :—
Sāmanta, *Māṇḍalika*, *Rāja*, *Mahārāja*, *Samrat*, *Virāt* and *Sarvabhauma*.

In the *Sukranīti*¹ we have the standard by which was measured the greatness of kings of various grades above mentioned. That ruler who realized an annual revenue of between one and three lakhs of *Karshas*² without oppressing his subjects was a *Sāmanta*.³ One whose annual

¹ i. 184-87.

सामन्तस्स नृपः प्रोक्तो यावद्विंशत्यवधि ।

तदूर्ध्वं दशलक्षान्तो नृपो माण्डलिकः स्मृतः ।

तदूर्ध्वं तु भवेद्राजा यावद्विंशतिलक्षकः ।

पञ्चाशद्विंशपर्यन्तो महाराजः प्रकीर्तितः ।

ततस्तु कोटिपर्यन्तः स्वराट् संराट् ततः परं ।

दशकोटिमितो यावत् विराट् तु तदनन्तरं ।

पञ्चाशत्कोटिपर्यन्तः सार्वभौमः ततः परं ॥

² A silver *Karsha* is about five-sixth of a rupee.

³ Here we have a new phase in the meaning of the word, which in Aśoka Rock Edict II is applied to the ruling kings Antiyoka (Antiochus) and others.

revenue was from three lakhs to ten lakhs was a *Māṇḍalika*. The king whose revenue ranged between ten and twenty lakhs was a *Rāja*. One whose income amounted to fifty lakhs was a *Mahārāja*. If the revenue ranged from fifty lakhs to one crore he was a *Svarāt*. He was a *Samvāt* who realized between one and ten crores of *Karshas*. The ruler whose revenue came to between ten and fifty crores was a *Virāt*, and the *Sārvabhauma* was superior to a *Virāt*. This list is by no means exhaustive;¹ nor could it be taken to be anything like an accurate estimate of the proportionate magnitude of the kings of ancient India. In many cases these terms appear to have been used indiscriminately, and all these forms were generally covered by the common term for

¹ In coins and inscriptions we meet with certain other designations, e.g., *Rājane* or *mahārājasa* in coins of the Indo-Bactrian kings; *Mahārāja Rājādhirāja* in coins of the Indo-Parthian kings; in those of the Kushāns we have *Mahārājasa rājādhirājasa sarvalokēśwarasa mahīśwarasa* (of Wima Kadphises) and the Greek equivalent *Basileus Basileon* (of Kanishka). *Sivālakura* is styled a *Rāno*; *Samudragupta* and *Chandragupta II* appear as *Mahārājādhirāja*. *Rājādhirāja* and *Rājarāja* are familiar in connection with the names of Chōla kings. The titles *Kshatrapa* and *Mahākshatrapa* appear in connection with Saka Kings.

See also Smith's *Catalogue of Coins in the Indian Museum*, vol. 1 and Fleet's *Gupta Inscriptions*, pp. 17, 25, 41, 241 and 243.

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kingship—*Rāja*. Still, this may be taken to be a rough estimate of the relative importance of rulers in India at least during the age of the *Śukranīti*.¹

The order of seniority among these kings must have been observed in the royal assemblies that had met for deliberation on interstate matters or on occasions of sacrifices which were performed by them.² There were, it would appear, differences between kings as regards the respective places of honour to be allotted to each. An instance may be found in the priority given to Krishna over Śiśupāla on the occasion of the *Rājasūya* sacrifice performed by Yudhishṭhira.³ The kind of sacrifice which a king was able to perform was taken to be indicative of the title which he deserved. 'By performing the *Rājasūya* one became *Rāja* and by the *Vajrasūya* *Samrāt*; and the latter was superior to the

¹ We may trace here a historical evolution in the meaning of the word *Rāja*. It meant anything between a king properly so-called and a republican chieftain of little power as used in the early Buddhist text. In the *Mahāvastu* speaks of 84,000 *Rājas* in Uṣṇīṣa. In the Pāli commentary of 7,707 *Rājas* (Buddhist text). Cf. *Mahābhārata*: Sabha Parva, 34, 13.

² Such royal assemblies met also on the *śrāddha* of a prince.

³ *Mahābhārata*: Sabha Parva, 34, 13.

former.'¹ He who had performed a horse-sacrifice was a *Sārvabhauma*.² Some other distinguishing marks of the more powerful of the kings in India were *Digvijaya*, *Punarabhisheka* and *Aindra Mahābhisheka*. *Digvijaya* or conquest of the quarters could only be started on by a *Chakravarti* or *Sārvabhauma* 'whose empire extended uninterrupted far up to natural boundaries, and formed a single state and administration in the lands as far as the seas'.³ The *Punarabhisheka* and *Aindra Mahābhisheka* were higher forms of ceremony by which only the most mighty monarchs of old were consecrated.

The kings were naturally jealous of each other's rise to power and greatness, and did not tolerate

¹ *Satapatha Brāhmaṇa*, ix. 3. 4. 8.

राजा वै राजसूयेनेष्टु भवति । संराट् वाजपेयेन । अवरं हि राज्यं परं साम्राज्यं कामयेत वै राजा संराट् भवितुं अवरे हि राज्यं परं साम्राज्यं ।

² *Āpastamba Śrauta Sūtra*, xx. 1. 1.

राजा सार्वभौमो अश्वमेधेन यजेत.

³ See *Raghuvamśa* 'आसमुद्रक्षितीश' (i. 5.)

Āitareya Brāhmaṇa, viii. 15. पृथिव्यै समुद्रपर्यन्ताया

एकराट् । पृथिव्या सागरान्ताया (Rāmāyaṇa: Ayōdhya Kāṇḍa, 12. 35).

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one that was an upstart and did deeds or performed sacrifices not in keeping with his title.¹ The performance of sacrifices, ceremonies, or deeds of valour was thus a criterion by which was decided the grade to which a king was entitled.²

¹ *Śatapatha Brāhmaṇa*, xiii. 1. 6. 3.

² Sacrifices were in abeyance under Aśōka, but were revived and considered of political importance soon after his death. Pushyamitra Śunga signalized by horse-sacrifice his suzerainty over other kings including the *Yavanas*. Śrī Śātakarṇi performed the *Aśvamedha* and got recognition among the kings of the Dekhan. In the extreme south such title to distinction is preserved, e.g., in the name of *Palyāgaśalai Mudukuḍumi Peruvalūdi*, 'the Pāṇḍya of the numerous sacrificial halls'. The *Puṇānūru* speaks of a king who performed 'the twenty-one kinds of sacrifice', a mark of distinction through the ages. (*Puṇam*, 166).

CHAPTER IV

DIPLOMATIC AGENTS

DIPLOMACY forms the most important division of peace in modern International Law; and there are in the works on the subject a number of rules which regulate the appointment, qualifications, rights and duties of ambassadors. It has been already noted that we have but meagre information derivable from the sources on rights and obligations in times of peace. We are in a better position so far as the present division of our subject is concerned.

Diplomacy in the sense in which it is now generally understood could not be met with *as such* in ancient India.¹ The system of accrediting ambassadors *permanently* from one court to another is too modern to have existed in those ages. It is also to be noted that the same set of rules regarding this subject did not prevail

¹ Dr. Shama Sastri informs me that the word *Ubhaya-
vetaṇa* denotes ambassador permanently accredited to a
foreign court. The distinction between this and other
diplomatic agents is not clear in the *Arthaśāstra*. But
the *Ubhaya-
vetaṇas* are classified under *Gādha puruṣaḥ*
(Secret persons).

all the epochs of our political history. The works on modern International Law show that the features of embassies and regulations regarding them current in the Middle Ages were somewhat different from those that obtain in modern times. We are told that in the age of Louis XI. the 'envoy' was merely a person sent by one sovereign to another to carry on a special mission. And it was this king that began the system of stationing ambassadors permanently in foreign courts. The growth of international relations in later ages made diplomacy an absolutely necessary department of statecraft.

Gradual changes are visible in the character, qualifications and duties of diplomatic ministers, as we proceed from the Vedic to the 'historic' period. Even in the period of its fullest development diplomacy never reached the advance of the present age. Permanent embassies were, it would appear, unknown, and were probably unnecessary even in the time of Kautilya.* In the *Arthaśāstra* the diplomatic minister was one sent, as in the Middle Ages in Europe, to carry on business of a special nature. Yet he was

* As Megasthenes says, there was the second department of Chandragupta's municipal administration which looked after the foreigners. This was apparently to discharge the duties of a special diplomatic officer.

entrusted with the intricate task of issuing ultimatum before war, declaring war, concluding treaties and, in general, keeping his sovereign informed of the state of the defences and the comparative strength and weakness of the country to which he was sent.¹ His functions were more or less the same as those of his representative in the western world.

History of Diplomacy in India

In the age of the Mantras we meet with the term *Dūta* employed in the sense of a 'messenger' to carry news. Agni is often mentioned in the Vedas as a *Dūta* whose function was to carry the offerings made to the gods by the *Yajamāna*. He is used as the medium of communication between the Supreme and the sacrificer.² The

¹ *Arthaśāstra*, p. 32.

प्रेषणं सन्धिपाकृतं प्रतापो मित्रसंग्रहः ।

उपजापस्सुहृद्भेदो गूढदण्डातिसारणं ॥

बन्धुरत्नापहरणं चारज्ञानं पराक्रमः ।

समाधिमुखो दत्तस्य कर्मयोगस्य चाश्रयः ॥

² *Rig Veda*, i. 12. 1. The passage is :—

अग्निं दूतं वृणोमहे होतारं विश्ववेदसं अस्य यज्ञस्य सुक्रतुं ।

Sayana in his gloss on the above passage quotes from the *Taittiriya Brāhmaṇa*. अग्निर्देवतानां दूत आसीत् ।

term here does not, however, signify any person intended to serve as an international agent.

The *Yajur Veda Samhita*¹ discloses to us another word to denote a messenger, *Prahita*. Sāyaṇa in his gloss on the *Rudrākhyāya* distinguishes between the two terms *Dūta* and *Prahita* as follows :—A *Dūta* was one skilled in obtaining intelligence regarding the condition of the enemy's army; and a *Prahita* is merely explained as 'one sent by his master.' The former apparently was more an international agent than the latter. We may hold the view that the term *Dūta* had acquired a technical sense in the Yajur-Vedic period, while *Prahita* denoted an envoy and *Chāra* the secret spy of later times.

An 'envoy' used in the exact sense of an agent for international purposes, appears to be a development of the next epoch. Instances are by no means rare in this period of ministers despatched by one sovereign to another whether in peace or on the eve of the outbreak of hostilities. Naturally, in the Epics we meet with

¹ *Taittiriya Samhita*, iv. 5. 7.

दूताय च प्राहिताय च. दूत is explained by Sāyaṇa

as प्राहिताय दूताय च. प्राहिताय च.

प्राहिताय दूताय च. प्राहिताय च.

illustrations and elaborate regulations regarding the formation of embassies, their character, rights and duties and their immunities. The Epics disclose to us some of the principles of equity and fairness, that are found in observance among European nations in this branch of International Law.

Diplomacy appears as a distinct and indispensable feature of international conduct from the historic period when great importance was attached to the work of ambassadors in foreign courts. Information is plentiful on this topic in the works of religious as well as secular literature. In this department also the work of Kauṭilya throws good light and it shows that in his time embassies had become an imperative factor in the state. The political system of Kauṭilya, the structure of his empire, the relations between the various states in his time, and the great importance that was attached by him to the theory of 'balance of power' made embassies, treaties and alliances matters of great import.

Classification and Functions of Diplomatic Agents

International Law in Europe divides the diplomatic agents of a state under various heads.

It was at the Congress of Vienna¹ that an attempt was made to give a definite classification of these ministers according to their powers and precedence. These were:—(1) Ambassadors, Papal Legates, Nuncios—representing the person and dignity of the sovereign as well as the affairs of their kingdom; (2) Envoys, ministers, etc., accredited to sovereigns; (3) *Charges D' Affaires* accredited to foreign ministers; (4) Consuls, etc., who discharged only duties of a judicial and commercial nature.² These differed much from one another in their dignity, functions and immunities. We find, however, that in general

¹ Necessity for classification arose once before at the Treaty of Westphalia and later, at the Congress of Aix-la-Chapelle. The former marks the transition from the International Law of the middle ages to that of modern times. Perhaps Kautilya's classification lies midway between that at Westphalia and the one at Vienna.

² Though there is no evidence of the institution of permanent consulates in foreign countries for judicial and commercial purposes, we find that consular functions were safeguarded in regard to judicial and commercial causes coming up between natives and foreigners. E.g., fines for smuggling, travelling without a pass, for reporting the activities of strangers, are mentioned in the *Arthashastra*, pp. 111, 112, 141 and 144. Dr. S. remarks that the second Manusmriti found duties which in modern Europe are carried out by consuls representing foreign powers. See Dr. S. on Consular Officers in *Journal of the Asiatic Society* for 1905, p. 200.

language the term ambassador was used to cover all these forms.

Various kinds of diplomatic ministers are made mention of in the literature of ancient India. All these are found generally styled *Dūtāh* whatever their rank and the mission on which they were sent. This practice continued throughout the Epic period ¹ in which we are able to discern little difference between one kind of diplomatic agent and another. In later ages ² different names were given to particular grades of ministers in accordance with their status and powers. In Kautilya's time diplomacy had made enough advance to be recognized as a subject of international conduct worthy of detailed consideration. The number and functions of these agents, and the nature of interstate relations had become so complex as to necessitate their classification. ³

¹ Two kinds of agents are in evidence in this age दूत and चार.

² The *Sukranīti* for instance has apparently only two kinds of agents—the secret spy and the open spy.

In the *Arthashastra* the spy is गूढपुरुष.

The *Kamandakiya* has

प्रकाशश्चाप्रकाशश्च चरस्तु द्विविधः स्मृतः ।

अप्रकाशीयं (चर) उद्दिष्टः प्रकाशो दूत उच्यते ॥ xii. 32.

³ *Arthashastra*, p. 30. The rendering of *Nisrishṭārthah*

There were :—(1) *Nisvishṭārthah* (2) *Parimitārthah*, (3) *Śāsanaharah*.

The first class were left in charge of the most responsible duties such as issuing ultimatum before war, declaring war and concluding treaties. It was left to these to act in such a way as not to prejudice the interests of their states and to keep the 'balance of power' ¹ which in the age of Kauṭilya formed the most important point in statecraft. We read of the great value attached by a king to the theory of the 'balance of power' among the twelve rulers who formed the *Mandala* and with whom he had relations. A classical example of an ambassador of this type was Śrī Kṛishṇa who was sent by the Pāṇḍavas to the Kauravas for negotiations with the latter just before the outbreak of the 'Great War'.

Next in order came the *Dūta*. This was a general term used to cover all the forms. Kauṭilya ² makes particular mention of this class,

as *Charges D' Affaires* by Dr. R. Shama Sastri is incorrect as *Charges D' Affaires* are much inferior to an ambassador according to the European classification. It means a plenipotentiary.

¹ *Arthashastra*, p. 260. See also *Agam Purana*, 240.

² In the *Kamandakya* only three classes are mentioned. दूत is used as a term to denote an ambassador in 3.

assigning to it special powers and functions. These, after they had been despatched to a country, were to live on friendly terms with the important officers and acquaint themselves with the situation there. They had to provide their states with detailed information about the defences of the country to which they went and note the comparative strength of its army, navy, fortifications, etc.

A minister of the third class did less important duties and, as the term implies, was left in charge of the particular mission on which he was sent. He was invested with powers to bring his mission to a satisfactory conclusion.

The ministers of the last order acted merely in the capacity of 'carriers of messages' from one court to another.

Espionage

Now we pass on to the consideration of the work of spies and other 'news agents' who formed in themselves a sort of international agents. Espionage was a very ancient system in India, utilized not merely for purposes of internal administration but also for external purposes, viz., for knowing the strength and weakness of the surrounding states. The spies acted as the

secret agents of the states to which they belonged. In matters of internal management they were employed to provide their sovereign with information as to what passed in the country, to note the relations of the government with the governed, and to report cases of maladministration ; in short, to gauge the general state of public feeling.¹ In matters of foreign policy they were to collect secretly information about the enemy country. The spy appeared in the guise of a trader, an ascetic, a quack, a cultivator or a recluse and furnished material to his state about the enemy.²

¹ *Sukraniti*, i. 132-34.

मयि कीदृक्च संप्रीतिः केषामप्रीतिरेव वा
ममागुणैः गुणैर्वापि गूढं संश्रुत्य चाखिलं
चारैः स्वदुर्गुणं ज्ञात्वा लोकोक्तः सर्वदा नृपः
सुकीर्त्यै संत्यजेन्नित्यं नावमन्येत वै प्रजाः ।

² *Arthaśāstra*, p. 18. कापटिकोदाख्यतट्टहपतिकोदहकता-

पसव्यञ्जनान् सत्रितोक्ष्णरसदभिक्षुकीञ्च ।

See also *Kāmandakīya*, xii. 36 and 42. Some of these spies acted as special 'Reporters' known as *प्रिन्सिपल* (See Rock Edict vi) in the Edicts of Asoka. These are 'Supervisors' by the Greeks. These are *पुलिशानि* (King's men) in Pala Edict vi.

‘ As monk or devotee thro’ every hindrance making
way

A spy whatever men do must watchful mind
display.’ ¹

And secrecy was the feature that went to distinguish him from the ambassadors of the higher class. This is probably the reason why in some of the later works of literature the ambassador is considered merely as an ‘open spy.’ During the age of the *Agni Purāṇa* all the diplomatic agents whether ‘secret’ or ‘open’ were classed together and considered as performing duties not quite honourable in character.²

The spies were of immense importance to a state and a kingdom is said to have its roots in spies and secret agents.

‘ These two—the code renowned and spies
In these let king confide as eyes.’ ³

Fleet as the wind, and energetic as the sun, they were to travel in the camp of the enemy to gather

‘ परिज्ञातु बलं कृत्स्नं ’ *Ramāyana*: Yuddha Kāṇḍa, 25. 17.

¹ *Kural*, Pope’s Translation, ii. lix.

² *Agni Purāṇa*, 241. 12.

³ *Kural*, *op. cit.* *Kāmandakīya* has : चारचक्षुर्महोपतिः

xii. 28. चारेण राजानः दीर्घचक्षुषः *Ramāyana*: Āranya Kāṇḍa, 33. 10.

secret information.¹ A king was to appoint as secret spies such men as were clever in understanding the movements of the enemy and his subjects, and as would faithfully deliver the information they may have received. Relating to the administration of espionage we read :—²

(1) The king should examine the spies, before appointment, as to their capacity and honesty.

(2) He should be well-protected while in their presence.

(3) He should hear from them at night.

(4) He should punish them when dishonest but carefully protect them during the period of work.

It is to be inferred from the above that though the 'spy' did not always mean that contemptible person who betrays his own side to the enemy and who deserves to be put to death for his crime, betrayal was, it would seem, not altogether unknown. There was in the employment of these secret agents probably the

¹ *Kāmandakiya*, xli. 29.

विवक्षानिव तेजोविः सखानिव जगिरे

राजा चरैः जगत्पुत्रं जगत्पुत्रं जगत्पुत्रं

² *Sakuntala*, I. II. 172. The text is: 'The king should examine the spies, before appointment, as to their capacity and honesty.'

lurking fear that the opposite camp might at any time win them over easily to its side. This suspicion and want of absolute confidence in these secret agents is in evidence in the *Mudrārākṣha* which is a drama involving a series of plots and counterplots.

The art of espionage reached its zenith under Kauṭilya. As Dr. Smith observes, 'The government relied on a highly organized system of espionage, pervading every department of the administration and every class of the population'.¹ We are told that cipher-writing was used by these and pigeons were employed to convey secret intelligence.² Megasthenes makes mention of this special department controlled by the 'five institutes of espionage.'

The system of espionage so far as it was utilized for international dealings may have implied as Dr. Smith remarks, 'inveterate and

¹ *Early History of India*, p. 139. The system of espionage corresponded only to the 'secret service' for which there is provision in all the European states. The secret service is intended to discover cases of sedition and discontent, and the officers would not ordinarily tamper with the regular and normal activities of the citizens.

² Cipher-writing or गूढलेख्य in *Arthaśāstra*, p. 21.

The episode of Nalā and Damayantī is illustrative of how birds were used as conveyers of messages.

universal suspicion.' But such has been the case in all ages among all nations as regards dealings in international politics. Dr. Smith is on rather questionable ground when he asserts that this 'inveterate and universal suspicion which regulated the dealings between every *Raja* and his fellow-rulers governed the conduct of the prince to his officials and subjects.' The spies were employed by kings not only to discover and report cases of discontent and sedition among the subjects, but were utilized for more satisfactory and laudable purposes. They are in fact to be regarded as instruments by which the king could feel the pulse of the nation, through which popular opinion was brought to bear in his public activities. They served as a means by which he could get rid of some of his own foibles and faults.¹ We need not enter into the

¹ *Yājñavalkya*, i. 338. *Sukraniti*, Sarkar's translation. The praiseworthy king should try to rectify his own faults having regard to the opinion of his subjects and should never punish them for their bold expression of their views. *Sukraniti*, i. II. 260-67. In the *Arthaśāstra* spies are to test the purity of the king's servants and to note cases of embezzlement of public money (Ch. 19 and 20). An illustration of such utilization is given by the king with a view to reform himself as found in the *Rāmāyana* where Rāma attended so closely to the voice of public opinion voiced by a *Vanashreshtha* that he got away his innocent queen.

question whether the reports sent in by these secret agents were invariably authentic. There is, however, room for thinking that they were not always implicitly relied upon, for the spies were agents of low rank and did not resort to quite honourable methods in the discharge of their duties. According to Kautilya,¹ that piece of information may be trusted which 'receives testimony from three different sources'; and the *Kural* says: 'things by three confirmed as truth you know'.²

Foreign Embassies in India

We have dealt so far with embassies of one type, intended for external purposes—sent by one sovereign to another *within the country*. Quite of a different type—different in their general character, duties and privileges—were those received by Indian monarchs *from outside India*. We have instances of such from the Mauryan period of our ancient history.

¹ *Arthashastra*, p. 21.

त्रयाणां एकावक्ये संप्रत्ययः ।

² *Kural*, *op. cit.* In the *Rāmāyana* we have त्रिमिः त्रिमिः अविज्ञातेः चारुकेः Ayōdhya Kāṇḍa, 100. 36.

Megasthenes, Dionysius, and Deimachus¹ are examples of this class. Through these the kings of ancient India kept friendly relations with foreigners. But so little of relations of a diplomatic or warlike character existed between India and the foreign countries that these embassies were few and far between. In the post-Christian period there is reference to the emperor Mingti of China (A.D. 58-76) having despatched ambassadors to India to learn the tenets of Buddhism.²

There must likewise have been despatch of embassies from India to foreign lands. Though we do not hear of return-embassies from the Mauryan empire to Syria or Egypt, there are indications that some Indian princes sent embassies to the Roman Empire and to China. Augustus received an embassay and gifts from an Indian King Pāṇḍion or as some say Porus.³ It

¹ Megasthenes was sent by Seleucus Nikator to the court of Chandragupta Maurya; the other two were received at the court of Bimbisāra Maurya, from Ptolemy Philadelphus of Egypt and Antiochus I. Soter of Syria respectively. Heliodorus, son of Dion was the *Yavana* envoy at Vidisa from Antialcidas, King of Taxila.

² Mac Gowan, *History of China*, p. 118.

³ Strabo, book xi. chap. iv. 73.

McCrimmon in *Ancient India*.

is recorded in the annals of the Han dynasty that in the time of the emperor Hwa (A.D. 89-105) 'the Indians' sent messengers and valuable presents to China. About the same time, there was an Indian embassy to emperor Trajan of Rome when he was encamped on the banks of the Tigris. An embassy sent by Kanishka to China may be regarded as signaling the revival of diplomatic relations which had been interrupted for half a century, as is apparent from the *Annals of the Later Han Dynasty*. Facilities for trade fostered by exchange of embassies are evidenced by the same standard of purity and weight in the systems of coinage. The Indian *Kārshāpana* the weight of which was 32 *rati*, i.e., $56\frac{1}{2}$ grains is the same as the silver coin of Kadphises and the Roman *Denarius*. The embassy sent by king Mēghavarṇa of Ceylon to emperor Samudragupta was of a different character. It had as its object the foundation of a monastery in Buddha-gaya, which was sanctioned by the Gupta emperor.

Qualifications of Diplomatic Ministers

The diplomatic agents of a state were important statesmen, and very responsible duties fell on them. Hence it was necessary that careful attention should be given to the choice of these.

Various rules are laid down regarding the qualifications and attainments which these agents ought to possess. They should be high-born, of good family, eloquent, clever, sweet of speech, faithful in delivering their message and endowed with good memory.¹ They should in addition be well-versed in Śāstras, be of good personality, fearless in their actions, and possess a sound knowledge of the feelings, attitudes and activities of others, and of the conditions of time and place. Dignity, courtesy, tact, courage, resolution and moderation in action are laid down as other characteristics of ambassadors.² It is clear

¹ *Mahabharata* : Śānti : Rājadharmā, 85. 28.

कुलीनः शीलसंपन्नः वाग्मी दक्षः प्रियंवदः ।

यथोक्तवादो स्मृतिमान् दूतः स्यात् सप्तभिः शुभैः ।

Mamasmriti, vii. 63-65.

दूतं चैव प्रकुर्वीत सर्वशास्त्रविशारदं ।

इङ्गिताकारचेष्टज्ञं शुचिर्दक्षं कुलीनद्वयं ।

अनुरक्तः शुचिः दक्षः स्मृतिमान् देशकालविदः ।

वपुष्मान् वीतभीः वाग्मी दूतो राज्ञः प्रशस्यते ॥

² *Arthashastra*, pp. 30-31. *Nīlakanthyaśāstra*, chapter 10.

प्रगल्भः स्मृतिमान् वाग्मी राज्ञे वाञ्छे च विद्वितः ।

अभ्यस्तकर्मा नृपतेः दूतो भवितुमर्हति ।

from the above that the envoy, if he should do his duties satisfactorily, had to possess great qualities of head, hand and heart. His qualifications may be broadly classified as follows :—

(1) Hereditary—High birth, integrity, loyalty to the sovereign.

(2) Moral and Social—Freedom from vices, honesty, strength of character, courtesy, forgiveness and eloquence.

(3) Physical and Mental—Memory, boldness, resolution, activity, tact, power of rightly understanding men's thoughts and actions, and fearlessness.

The ambassador accredited to a foreign court was thus to be a person who combined in himself many statesmanlike qualities. It is indeed a very high ideal ; but it is not possible for us to know exactly how many kings were able to realize this ideal of the ambassador of whom Śrī Kṛṣṇa was a splendid example.

In the *Kural*¹ one of the earliest works of the *Śāṅgam* are laid down the following qualifications of the ambassador :

¹ Benevolence, high-birth, the courtesy, king's love,—
These qualities the envoy of a king approve,

¹ *Kural*, ii. lxix.

Love, knowledge, power of chosen words—three things

Should he possess who speaks the words of kings.
Mighty in lore amongst the learned must he be
'Midst javelin—bearing kings who speak the words of victory.

Sense, godly grace and knowledge exquisite—

Who hath these three for envoy's task is fit ;

In terms concise, avoiding wrathful speech

Who utters pleasant word,—

An envoy he who gains advantage for his lord ;

An envoy meet is he, well-learned, of fearless eye,

Who speaks right home prepared for each emergency.

He is the best who knows what is due, the time considered well,

The place selects, then ponders long ere he his errand tell ;

Integrity, resources, soul-determined truthfulness—

Who rightly speaks his message must these marks possess ;

His faltering lips must utter no unworthy thing

Who stands with steady eye to speak the mandates of his king.

Death to the faithful one, his embassy may bring

The envoy gains assured advantage for his King.

Beginning of a Diplomatic Mission

When once a diplomat is sent on a mission for a particular mission, he is to be

he should be given certain credentials to be received kindly by the foreign court. Besides, he should be invested with powers to act on behalf of his sovereign. He should take with him certain means of introduction and general instructions, whether oral or written, as to the line of action he should pursue in the country to which he is accredited. We have no means of knowing what credentials were taken by an envoy in ancient India, corresponding to the 'letters of credence,' 'full-powers,' 'general powers,' 'passports,' or the like of modern times. We can only say that some instructions oral or written and some means of identification, which were absolutely indispensable, must have been given to the envoys before they departed on their mission.¹

¹ Even the term शासनहर used to denote the last class of diplomatic agents means 'carrier of messages'. The following passages are interesting in connection with the instructions to be issued to ambassadors:—

शासनप्रधाना हि राजानः, तन्मूलत्वात् सन्धिविग्रहयोः 'Writs are of great importance to kings as peace and war depend on these'. The commentator on the above passage writes, 'As oral order sent through messengers is liable to be spoiled by misrepresentation, carelessness and want of intelligence of the messengers, it is only writing on palm leaf that deserves the name of royal order'.

Dr. Shama Sastri's translation, p. 80.

Immunities and Privileges of Diplomatic Ministers

Elaborate rules are laid down in the modern text-books of International Law as regards the

The contents of a writ are mentioned in :—

देशैश्च वंशनामधेयोपचारमीश्वरस्य ।

देशनामधेयोपचारमनीश्वरस्य ।

जातिं कुलं स्थानवयस्श्रुतानि ।

कर्मद्विशीलान्यथ देशकालौ ।

योनानुबन्धं च समीक्ष्य कार्ये ।

लेखं विदध्यात् पुरुषानुरूपं ॥

The various general purposes for which writs were issued are set forth thus :

निन्दा प्रशंसा पृच्छा तथाऽऽख्यानमथार्थना ।

प्रत्याख्यानमुपाकम्भः प्रतिषेधोऽथ बोधना ।

सान्त्वनम्यवपत्तिश्च भर्त्सनानुनयो तथा ।

The kinds of writs that may be issued to messengers were :—writ of information (परखार); writ of command (आज्ञा); writ of gift (दण्डाह); writ of amends or remission (परहिस); writ of license (लिसेन्स); writ of guidance (प्रवृत्ति) and writ of reply (उत्तर).

See *Arthashastra*, pp. 70-73.

sacredness and inviolability of the person and property of diplomatic ministers. Ministers and their suite are, it is generally accepted, exempt from local jurisdiction. We find that this was also the practice current in the various epochs of the ancient history of India. There was the strong belief that any violence or insult to the ambassador was in fact committed on the king who sent him, since he was the representative of his sovereign, being only his mouthpiece.¹ We read that a monarch should never slay an envoy under any circumstance. 'That king who slays an envoy sinks into hell with all his ministers.'²

A diplomatic minister enjoyed, as a matter of course, great privileges in the foreign court. To put to death an envoy was opposed to the general conduct of kings and condemnable by the whole world.³ 'The virtuous have always held that the ambassador should on no account be slain.'

¹ *Arthaśāstra*, p. 30. दूतमुखा वै राजानः etc. Also *Ramayana*: Sundara Kāṇḍa, 52. 21.

² *Mahābhārata*: Śānti: Rājadharmā, 85. 26. दूतस्य हन्ता निरयं आविसेत् सचिवैस्सह ।

³ *Ramayana*: Sundara Kāṇḍa, 52. 5 and 6.

राजधर्मविरुद्धं च लोकवृत्तेश्च गहितं ।

He should not be put to death even if he be offensive and did some serious wrong. 'Let him be armed with weapons, still he should not be killed.'¹ Be he good or bad, being sent by others to represent their cause, he did not deserve death.²

It is interesting to note that the Indian view was more advanced in this respect than what prevailed for instance in China. When Kanishka demanded matrimonial alliance with China, not

¹ *Arthaśāstra*, p. 30. उद्धृतेष्वपि शस्त्रेषु यथोक्तं वक्तारः
तेषां अन्तावसायिनः अपि अवध्याः। *Niti-prakāśika*, vii. 64.

See also *Rāmāyaṇa* : Yuddha Kāṇḍa, 25. 16 and 21.

² *Rāmāyaṇa* : Sundara Kāṇḍa, 52. 21.

We read in the *Rāmāyaṇa* that the envoy, who, regardless of the orders of his lord delivers a message of his own, deserves to be put to death, for he is unfaithful.

यस्तु हित्वा मतं भर्तुः स्वमतं संप्रभाषते ।

अनुक्तवादी दूतः सन् स दूतो वधमर्हति ।

Yuddha Kāṇḍa, 20. 18-19.

In diplomatic relations with primitive peoples the inviolability of the ambassador's person was secured by choosing as envoys men of the priestly class whose persons were considered by all as sacro-sacred. Thus were the Nambudris used in ancient Kerala, not only in diplomatic missions in the west coast but across the sea to the Laccadives and the Minicoy islands.

Malabar Quarterly Review, vol. 62 (1906).

only was his offer rejected with scorn but his envoy was ill-treated and imprisoned.

But there were certain recognized punishments¹ that could be meted out to an offending envoy—such as causing deformity of the limbs, mutilation, cropping of the hair; or the ambassador that had given offence could be sent away and a more satisfactory one could be got appointed to carry on the negotiations. An instance, where the diplomatic minister, had to be punished in one of the above ways, is found in the *Rāmāyaṇa* where Rāvaṇa gave the order for the mutilation of Hanumān, for he was an ambassador and could not therefore be slain.

Termination of Embassies

An embassy naturally terminated when the mission on which a minister was sent had been satisfactorily settled. A particular embassy had of necessity to be discontinued:

(1) when the minister died in the course of his diplomatic work,

¹ *Rāmāyaṇa* : Sundara Kāṇḍa, 52. 15.

वेरप्यवज्जेषु कोशमिवातो मौण्ड्यं तथा रुक्षणसन्निपातः ।

एतान् हि दूते प्रयदन्ति दण्डान् etc.

(2) when the sovereign of the country which sent the minister died, and there was perhaps the end of the old order,

(3) similarly also, on the death of the sovereign of the country to which he was accredited,

(4) next on the eve of the outbreak of war, when the diplomatic minister was invariably recalled, as in modern times.¹

(5) Again, if an envoy was unable to settle his mission satisfactorily, he might stay in or get out of the enemy country as he deemed desirable. He might intimate an unfavourable order to the enemy and return to his country without his permission, in case he thought he was unnecessarily detained.²

¹ *Arthashastra*, p. 31.

² *Ibid.*, कार्यस्यासिद्धो उपरक्ष्यमानः तर्कयेत्
 ज्ञात्वा वसेत् अपसरेद्वा । प्रयोजनमिष्टमपेक्षेत
 वा । शासनमनिष्टमुक्त्वा व्यपुमान्नेव ।

CHAPTER V

ALLIANCES AND TREATIES

General Considerations

IT was noted in the last chapter that entering into alliances and treaties was among the most important functions of ambassadors. An attempt is made here to consider the various causes, characteristics and kinds of alliances and treaties. It has been already seen ¹ that there were political units of organization of different grades and of unequal strength and resources in the various periods of the ancient history of India. States in India were so many, and their activities so varied, that there were divergent tendencies in their mutual relations and opposing principles guiding their policy. Naturally, there was constant intercourse among these for various purposes, and what in modern phraseology are known as alliances, leagues, confederacies, *ententes* and coalitions became a political feature of immense importance.

Alliances, variously styled as *Sandhi*, *Samśraya*, *Āśraya*, and *Samāśraya*, are reckoned by

¹ See chap. i.

all writers, secular and religious, as forming a separate department of statecraft.¹ *Āśraya* is defined as seeking the protection of another,² a means by which even the weak may become powerful. Indian literature on polity places great insistence on the king keeping up the 'balance of power' among the circle of states that surround him (*Mandala*). A *Mandala* consisted of twelve kings of differing attitudes and varying relations to each other.³ It was to the interest of a state to manipulate the relations

¹ The six attributes of statecraft are :—

सन्धि, विग्रह, संश्रय, आसन, यान and द्वैधीभाव.

² *Arthaśāstra*, p. 261. परार्पणं संश्रयः ।

Sukranīti, iv. 7. 238. यैर्गुप्तः बलवान् भूयात् दुर्बलमपि

स आश्रयः । The alliance thus sought had to be accepted.

Cf. *Bṛihaspati*, iii. 41.

³ In the *Kautilīya* are mentioned four primary 'circles of states,' twelve Kings, sixty elements of sovereignty, seventy-two elements of states. See p. 259.

See also *Kāmandakīya*, chap. viii.

The twelve kings are besides the king in point

(विजिगीषु), अरि, मित्र, मध्यम, उदासीन, अरिमित्र, मित्रमित्र,

अरिमित्रमित्र, पाणिग्रह, आग्रह, पाणिग्रहाहार and अवि

न्दासार. *Mam.*, vii. 155-86. *Arthaśāstra*, vii. 155-86.

with others in such a way as never to allow itself to be overwhelmed. It should have around it friendly, hostile and neutral states so arranged as to secure the safety of its own position. There was little chance in such a case of its being invaded by hostile armies because there were the other intervening states who might form coalitions to resist the invasion on the principle of 'self-preservation'. The wise king should thus make himself the *nābhi* (centre of gravity) of the *Maṇḍala* and have the surrounding states serve as the *nēmi* (spokes) of the wheel.¹ In this, Kaṭilya and the other writers touch on the importance of constant alliances and counter-alliances among the various powers.

History of Alliances

Alliances are in evidence even in the earliest age of the history of India. In the *Rig Veda*² some of the Aryan tribal communities are seen to enter into leagues with one another and with some non-Aryan tribes to form a 'confederacy' against

¹ *Arthaśāstra*, p. 260.

नेमिमेकान्तराद्राज्ञः कृत्वा चानन्तरानरान् ।

नाभिमात्मानमायच्छेत् नेता प्रकृतिमण्डले ॥

² E.g., vii. 18. 23.

the most powerful Aryan political organization of the Tritsus under their leader Sudās. The result was the 'Battle of Ten Kings' which is mentioned in some of the hymns. The apparent reason for the formation of the confederacy was the desire of the confederates to check the growth of Sudās.

In the Epics there are many instances of alliances actuated by different motives in different cases. We have the names of a good belt¹ of Aryan and non-Aryan kingdoms that took sides with the combatants in the *Mahābhārata* War. The 'alliance' was for offensive and defensive purposes and was formed with a view to crush one of the rival powers and lead to the rise of the other. The frequent quarrels among some non-Aryan and Aryan tribes gave occasion for such alliances. The league of Rāma with Sugrīva² against Vāli and Rāvaṇa is a case in point. Another instance is found in the alliance of the Pāṇḍavas with King Virāṭa against the

¹ Chief of these were the Uttara Kuru, Uttara Madra, Gāndhāra, Bāhlika—(Northern.)
Anga, Magadha, Kikata—(Eastern.)
Bhōja, Āndhra, Satva—(Southern.)
Nichya, Apachya, Bālī, Kāmbhōja, Tāpaka—
(Western.) *Mahābhārata*: Bhishma Parva.

² *Rāmāyana*: Kishkindha Kāṇḍa, xviii, 1-2.

Kauravas.¹ These, we may say, were formed to keep up the balance of power or to uphold the cause of the righteous against the wrong-doer.

Coming to later times, we find that Magadha and Avanti were for long the dominant powers in Hindustan and, naturally enough, combinations were made among the various smaller states to thwart the growing ambition of these empires and to preserve their own integrity and independence. The *Pratijñāyauṅgandharāyaṇa* of Bhāsa² illustrates how king Pradyōta, Mahāsēna of Avanti was trying to realize 'the world ideal' and how he tried to overcome the Prince of Kauśāmbi who alone had remained independent. An early example of an interstate alliance in the history of Magadha may be cited in the confederacy of the eight Lichchavi clans.³ The coalition of these republican clans was formed in order to act as a bulwark against the growing aggression of Magadha which was trying to stretch its arms on all sides especially in the reigns of two of its most powerful sovereigns, Bimbisāra and Ajātaśatru. The latter is said to have defeated this coalition and

¹ *Mahābhārata*: Virāṭa Parva.

² Trivandrum Sanskrit Series.

³ Jacobi, Jaina Sūtras, *Sacred Books of the East*, vol. xxii, p. xii.

got the cession of a large tract of territory. Later, there is the alliance of Udayana of Kauśāmbi with Darśaka of Magadha which forms the historical background of the *Svapna Vāsavadattā*. This was intended to help Udayana in suppressing the revolt of the Vatsas. In the same period we read of Chandragupta Maurya having displaced the Nandas from the throne with the help of the 'Lion' and the 'Elephant'.¹ These alliances were actuated either by the lust of kingly power and territory or to avert the danger of being overcome by more powerful enemies. In the Śunga period the alliance of one of the claimants to Vidarbha throne with Agnimitra Śunga is mentioned in Kālidāsa's *Malavikāgnimitra*, while the Gupta inscriptions ascribe the fall of the Huns to the combined forces of Yaśōdharman in the west and Balāditya in the east.

Such alliances are also found in South Indian history.² The early Chōla King Karikāla of the Śāngam period is said to have allied himself with Avanti, Vajra and Magadha. The Chera King

¹ These were the emblems respectively of the kings of Simhāpura or the Salt Range, in Rajasthan, and the Gajapatis of Kalinga. Cf. Venkateswara, *Ancient History of Magadha in Indian History*, p. 100.

² *Ahambhūti*, 36 and 208; *Purāṇa*, etc.

Senguttuvan helped Killi Valavan Chōla in defeating his enemies at Nerivāyil. The Pāṇḍya King Nedum Śēliyan defeated a confederacy of Chera and Chōla kings and five other chieftains.

Reasons for the Formation of Alliances

From this brief sketch of political alliances we are able to gather the causes that led to their formation. The occasion for these varied in different cases. But for the most part they were made for defence against the aggression of other powers; and, as Kauṭilya says,¹ whoever was lacking in the necessary strength sought the protection of another. In certain cases they were intended to prevent the dangerous overgrowth of one particular state, or to thwart the designs of the enemy by a show of combination. Other causes for alliances appear to have been the desire for the acquisition of territory, or for maintaining the balance of power among states. It may be noted, in general, that the alliances were formed mostly for purposes of war. Otherwise, the ordinary rules of statecraft in regard to rights and duties in normal times regulated the interstate relations. In fact, states which were

¹ *Arthaśāstra*, p. 261. शक्तिहीनः संश्रयेत. See also *Rāmāyaṇa* : Yuddha Kāṇḍa, 35. 9.

not enemies, natural or artificial, were looked upon as allied states.

Alliances were made during times of peace as well as before the parties to a war had finally declared their hostilities. Combinations of powers with a view to defeat a common enemy or to preserve the 'balance of power' or for similar causes are in evidence in the *Arthaśāstras* and *Nītisāras*. Generally, the agreement was to the effect that one of the parties should lead his army in one direction, while the other should undertake another expedition, the profits to be equally divided between both.¹ When the benefits accruing to both parties were not equal, there was an instance of *Hīnasandhi*.² Such undertakings might be for carrying out a particular object, in a specified period of time and upon definite terms. There were other cases where the agreement was interminable and was not made on stipulated terms.³

¹ *Arthaśāstra*, p. 277. सामन्तं संहितप्रयाणे योजयेत्—

‘त्वमितो याहि, अहमितो यास्यामि समानो लाभ इति’

² The various kinds of *Hīnasandhi* are set forth in the *Arthaśāstra*, pp. 266–69.

³ *Arthaśāstra*, p. 277.

परिपणितदेशकादीर्थः and अपरिपणितः

The following points may be noted about the necessity for alliances :—

‘ A king should ally himself with one stronger than his neighbouring enemy. In the absence of such an ally he should ingratiate himself with his neighbour. There can be no greater evil than seeking protection with a king of enormous power, unless one is actually attacked. One who stood between two powerful kings shall ally himself with the stronger or with the more reliable, or with both on equal terms. He may make alliance with a neutral. Of two Powers friendly to each other, it is preferable to seek the protection of the one who is the more friendly and agreeable ’.¹

¹ *Arthaśāstra*, pp. 265 and 266.

यद्वलः सामन्तः तद्विशिष्टबलमाश्रयेत् ।

तद्विशिष्टबलभावे तमेवाश्रितः ।

महादोषो हि विशिष्टबलसमागमो राज्ञामन्यत्वारिगृहीतात् ।

बलीयसोर्वा मध्यगतस्त्राणसमर्थमाश्रयेत् ।

यस्य वा अन्तर्द्विरस्यात् ।

उभौ वा कपालसंश्रयः तिष्ठेत् ।

The advantages of coalitions are thus set forth in the *Nītisāra* of Kāmaṇḍaka : The alliance even with *anāryas* is advised, for, 'union is strength.' It is difficult to uproot even bamboos if they are in a cluster.¹

प्रियो यस्य भवेद्यो वा प्रियोऽस्य कतरस्तयोः ।

प्रियो यस्य स तं गच्छेत् इत्याश्रयगतिः परा ॥

The circumstances under which a combination of powers is advised by Kaṭilya are as follows (see p. 272) :—

If a king finds:—'Any way the enemy has to be attacked but I am unable to march against him alone', he may combine with kings of equal, inferior or superior power and lead his expedition. The share of the spoils is to differ according to the aim to be achieved—definite or not. If such a combination could not be effected, he was to hire mercenaries, or request aid on promise of equal distribution of spoils. यदा वापश्येत्—

‘न शक्यं एकेन यातुं अवश्यं च यातव्यं’ इति, तदा साम-
हीनज्यायोभिः सामवायिकैः संभूय यायात् एकत्र निर्दिष्टेनांशेन
अनेकत्रानिर्दिष्टेनांशेन । तेषां असमवाये दण्डमन्यतरस्मिन्निविष्टा-
शेन याचेत । संभूयाभिगमनेन वा निर्दिश्येत ।

¹ *Kāmaṇḍakīya*, ix. 45 and 46. सुखिः कार्योष्णमार्गैः

संघातवान् यथा वेणुः निविडः कण्टकैर्वृतः ।

न शक्यते समुच्छेत्तु etc. *Sāmaññasūtra*, ii. 24.

Nature of Agreement

There were thus two kinds of agreement—definite and indefinite—*paripāṇita* and *aparipāṇita*.¹ The former of these two classes assumed three forms in accordance with the stipulation of place, time and aim.

In the first case the contract was to the effect that one of the parties should lead his army to one fixed place, while the other was to march in another direction to a different spot.

When the agreement was for engaging in a particular task for a specific period of time there was the combination to attain the object in a fixed time.

In the third case the two parties concerned had to accomplish a certain set task.

Then again, the agreement for realizing a definite aim may be for the acquisition of a friend,

¹ त्वं एतद्देशं याहि अहं इमं देशं यास्यामि—परिपणितदेशः

त्वं एतावन्तं कालं चेष्टस्व अहं एतावन्तं कालं चेष्टिष्येति—
परिपणितकालः.

त्वं एतावत्कार्यं साधय, अहं एतावत्कार्यं साधयिष्यामीति—
परिपणितार्थः.

or wealth, or of territory, whether terminable or interminable.¹

An alliance on the understanding 'Let us acquire a friend or wealth, is termed agreement for the *equal* benefit of both.'

The second was an agreement made to the effect 'Let us acquire land together.'

This compact was interminable when it was for 'the occupation of unused land.'

There were four kinds of activity connected with agreement (*Sandhi*): *Akṛitachikīrṣhā* comprised arrangements prior to the formation of a treaty,—such as reconnoitering the forces, carrying on diplomatic relations, etc., agreeably to the status of the party concerned. *Kṛitāśleṣhaṇam* meant the maintenance intact of the treaty relationship already formed. *Kṛitavidūṣhaṇam* denoted the measures taken to frustrate any attempts of a third party at weakening or dissolving the alliance. *Avaśīrṣhakriyā* was the loosening of the bond,

¹ मित्रसन्धिः, हिरण्यसन्धिः, भूमिसन्धिः, कर्मसन्धिः and अनवसितसन्धिः.

त्वं चाहं च मित्रं (हिरण्यं) लभायहे—समसन्धिः.

त्वं चाहं च भूमिं लभायहे—भूमिसन्धिः.

त्वं चाहं च शून्यं निवेशयामहे—अनवसितसन्धिः.

through the agency of friends or ministers, on some pretext or other.¹

Kinds of Alliance

Alliances were of two classes—offensive and defensive—the former mostly during war, the latter in times of peace as well. A second type is in evidence in the alliances on equal and unequal terms—*samāna* and *asamāna* or *hīna*.² Apparently in the first, both parties that entered into the alliance had equal advantage, while in the latter, from its very nature, the less powerful states of the coalition were bound to the larger states in various ways. In fact, any league of states where the initiative was taken by the weaker being hard-pressed to preserve their own existence, was, generally speaking, an instance of the latter class—*hīna*. In the *Harsha Charita*³ we have an alliance of this kind sought by Kumārarāja, the king of Kāmarūpa with Emperor Harsha. The position of an *asamāna* ally corresponded roughly to that of a feudatory state. He was bound, it would appear, 'to do suit' as is indicated by the order that was given

¹ *Arthasāstra*, pp. 278 and 279.

² *Ibid.*, *op. cit.*; *Manu*, vii. 163.

³ Chap. vii. i.

by Harsha to his ally. 'I desire you to come at once to the assembly with the strange Śramaṇa you are entertaining at the Nālandā convent.'¹ The subordinate position of Kumārarāja in relation to Harsha is clear from the place accorded to him in the procession with the image of the Buddha as described by Yuan Chwang.²

The duties of a subordinate ally, roughly speaking, were :—

- (1) To accept the superiority of his ally.
- (2) To leave with him the conduct of the affairs for which the alliance was formed.
- (3) To help in various ways, providing him with men, money and other auxiliaries.
- (4) To attend on him when called on to do so.
- (5) To abide by the terms of the alliance.³

Alliances might again be either voluntary or purchased.⁴ The former depended on the good will of the parties and were therefore more

¹ Beal, *Buddhist Records of the Western World*, i. 216.

² *Ibid.*, i. 218.

³ In the *Arthashastra* it is stated that a king should help his ally even at the expense of his own interests.

संश्रितस्तु परस्योपकरोति नात्मनः (p. 265.)

⁴ *Arthashastra*, p. 311. राज्ञा विश्वासोपगमः and प्रतिग्रहो वा. The former is according to Kautilya's system while the latter is चारु.

stable. The latter were obviously mercenary and intended to last only until the object for which the compact was formed had been achieved. They were not alliances proper. Alliances with feudatories and vassals were also common, though they were not considered quite desirable. This is clear from the statement in the *Śukranīti*¹ to the effect that a king may make peace with feudatories, if it will result in the conquest of his enemies. There were not only the alliances of the Aryan or the non-Aryan states but also those of a mixed nature formed of Aryan and non-Aryan powers. Those mentioned in the *Rig Veda* and in the Epics are instances in point.

Matrimonial Alliances and Their Political Significance

Very often a political compact was strengthened by a marriage alliance contracted by the sovereigns. And here we are reminded of the system of 'Dynastic Marriages' which prevailed in Europe in the sixteenth and seventeenth centuries. To cite only a few instances, Vatsa, the country of Udayana, was overrun by malcontents under the arch-rebel Āruṇi. He was compelled

¹ iv. 7. 243.

ALLIANCES AND TREATIES

to flee and seek protection in Lāvāṇaka for a time. In order to win the support of Darśaka, king of Magadha, a marriage was contrived by Udayana's skilful minister Yaugandharāyaṇa between his king and Padmāvatī, the sister of Darśaka. This marriage was of political significance in securing not only Darśaka's abstention from actively helping the insurgents in the Vatsa country, but his prompt aid in putting the rebellion down.¹ An instance of a different type may be seen in the alliance formed by Seleucus and Chandragupta, where the latter was offered the hand of a Greek princess or at least the *jus conubium*.

In the reign of Kanishka we have an illustration of the inevitable effects of refusal of proffered matrimony. When the Kushāna prince about A.D. 90, demanded the hand of a Chinese princess, his envoy who conveyed the offer was arrested by Pan-Chao the Chinese General. War ensued, and the Kushāna king had to pay tribute. In the marriage of the Āndhra king, Pulumāyi, to a daughter of Ru—we have not only the result of Gautamīputra's conquest of the Kshaharātas but the reason why disaster was averted for the Āndhra kingdom which had sustained reverses under

¹ *Indian Antiquary*, 1916, op. cit.

Rudradāman. In the Gupta period the importance of the Lichchavi marriage stands clearly revealed. So does the marriage of the Vākāṭaka prince Rudrasena to Prabhāvatī, daughter of Chandragupta Vikramāditya.¹

Treaties and Their Formation

Alliances were dependent on treaties as to their motives, duration and terms. Those of honour were certainly the most praiseworthy.² But there were other kinds, for instance, those that concluded wars, and those that secured peace by purchase. In both cases there was the necessity for the stipulation of the terms on which they were concluded and possibly also for the mention of penalty in the event of a breach. Such treaties were necessary to keep intact the

¹ In the Chammak copper-plate of Pravarasēna II, we have an instance of long-standing dynastic marriage alliances. The Vākāṭakas intermarried with the Bhāraśivas. *Gupta Inscriptions*, pp. 241 and 248.

Similarly, we have various examples of marriage relationship among the three kingdoms of South India, Pāṇḍya, Chōḷa and Chera.

² *Arthaśāstra*, p. 311. सत्यं शपथो वा परत्वेह च स्थावरः
though in the opinion of 'his teacher' सत्यं शपथो वा
चाकसन्धिः.

subordinate character of the less powerful of the states. These were concluded by the ambassadors, or other accredited ministers of the sovereigns; or as it oftentimes happened, the kings met in person and themselves made the agreements of peace. Though the general terms of a treaty might be settled by the ministers appointed for the purpose, the sovereign was the final treaty-making and ratifying authority.¹

¹ See *infra*, chap. ix : Termination of War.

CHAPTER VI

GENERAL ETHICS OF WARFARE

MAN is a warring animal, said Hobbes, and as there is among individuals an innate tendency for the subjugation of others in the struggle for existence, so with nations the prospects of material well-being and the desire for domination appear to have produced a tendency for war. If we remember the conditions that prevail among the civilized nations of modern times, even after advanced ideals of brotherhood and solidarity have been preached far and wide, we need not be surprised that in the bygone millenniums, amidst the variety and multitude of the nations in ancient India, wars were not of infrequent occurrence. The very hymn of the *Purusha-Sūkta* which has been utilized to explain the origin of the four orders of society makes provision for a warrior caste, and to die in righteous battle was the highest merit of a valorous Kshatriya.¹

The conception of war as an engine for destroying the heathen or barbarian, which prevailed in

¹ E. g., *Manu*, vii. 87-89. संग्रामेष्वनिवर्तित्वं. etc.

Yājñavalkya, i. 324.

ancient Greece and Rome is seen to operate in India also. The *Mahābhārata*¹ says: 'War was invented by Indra for destroying the Dasyus, and weapons and armour were created for the same end. Hence merit is acquired by the destruction of the Dasyus.' The Dasyus were, as is clear from the *Rig Veda Samhita*, the non-Aryan inhabitants of India who differed from the Aryas in colour, features, language, religion and social institutions. But the Aryas fell to fighting among themselves, besides attempting to extirpate the non-Aryan races. Many a hymn in the *Rig Veda*² indicates the wrath of the Aryan bard not only against the Dasyus but against the Aryan opponents of his own tribe.

Definition and Description

Warfare (*Yuddha*) has been defined as the affair that two parties who have inimical relations undertake by means of arms to satisfy their rival interests.³ It is that by which

¹ Udyōga Parva, 29. 30 and 31.

² E. g., vi. 33. 3.

³ *Sukranīti*, iv. 7. 220.

आविश्रतोः शत्रुमावमुमयोः संयत्तात्मनोः ।

अस्त्राद्यैः स्वार्थं सिद्धयर्थं व्यापारो युद्धं उच्यते ।

the enemy is opposed and subjugated.¹ This definition contains some of the characteristic conditions of warfare in ancient India. It would appear that war was an affair between state and state and not between individuals. It is stated definitely that war should be waged only if all other expedients of bringing about peace have failed.² Wars were declared not precipitately but after due deliberation of the past events, and only when the conduct of the belligerent states necessitated breaking off negotiations. The hostile feeling of the belligerent communities should have been of long standing. The next condition assumed in the definition is

In the *Nītisāra* of Kāmaṇḍaka warfare is defined thus :

अमर्षोपगृहीतानां मन्युसंतप्तचेतसां ।

परस्परापकारेण पुंसां भवति विग्रहः ॥ x. 1.

In the latter definition some of the conditions stated in the former are wanting.

¹ *Sukranīti*, iv. 7. 236.

विकर्षितः सन् वा अधीनः भवेच्छत्रुस्तु येन वै ।

Arthaśāstra, p. 261. अपकारी विग्रहः.

² E. g., *Mahābhārata* : Śānti : Rājadharmā, 68. 26.

सान्त्वेन तु प्रदानेन भेदेन च नराधिपः ।

यमर्थं शत्रुयात्रासु तेन तुष्येत पण्डितः ॥

the use of arms. Here we are led to the distinction between *Kalaha*¹ or ordinary quarrel and *Yuddha* which implies the employment of organized forces and implements of destruction. Lastly, war meant a series of acts of hostility, and not merely a condition. Probably, the condition or attitude of belligerency was denoted by the term *Vigraha*.

Classification of Warfare

Warfare is classified² according to the weapons with which it was conducted into *daivika*, *āsura*, *mānusha* and also according to the methods of fighting into³ *prakāśa*, *kūṭa* and *tūshṇi*.

¹ *Sukranīti*, iv. 7. 252.

विग्रहः स च विज्ञेयो ह्यन्यच्च कलहः स्मृतः ।

² *Ibid.*, iv. 7. 221.

मन्त्रास्त्रैः दैविकं युद्धं नाकायस्त्रैः तथासुरं ।

शस्त्रबाहुसमुत्थंतु मानुषं युद्धमीरितं ॥

In the *Ramayana* *Āsura yuddha* is warfare where *māya* (guile) is employed. *Yuddha Kāṇḍa*, 100.

³ *Arthashastra*, p. 281.

प्रकाशयुद्धं निर्दिष्टो देशे काले च विध्रमेः ।

विभीषणभवस्कन्दः प्रमादव्यसनार्दनं ॥

एकत्र त्यागवातो च कूटयुद्धस्य भातकाः ।

वीरानामपिपत्तापार्थं हृण्णो युद्धस्य कथनं ॥

Daivika was that variety in which charms and spells were used. This is chiefly spoken of in connection with the fights between the *Devas* and *Asuras*, and this need not therefore engage our attention.

The *āsura* form was one in which mechanical instruments were employed. Wherever engines and contrivances causing sweeping destruction are used there is probably the *āsura* method of fighting.

The *mānusha* was that where organized forces were engaged, in military array. The army was composed of the classical divisions of cavalry, infantry, elephants and chariots, and there were certain accepted modes of array like the lotus, waggon, crocodile, circle and needle.¹ It is this variety of warfare with which we are directly concerned.

Open warfare (*prakāśa*) was conducted by threats, assaults and creation of confusion in the ranks of the enemy at the right time and in the right place. In ordinary circumstances fighting was to be open, no underhand or unfair dealing or foul play being allowed. Treacherous (*kūṭa*) warfare consisted in pretending to keep up good

¹ See *infra*, chap. viii.

relations with the enemy and taking him by surprise. It implies the use of crafty and clandestine methods. This kind of fighting was not sanctioned under normal conditions and was permitted only for the weak warring with the strong, and even there only as the last resort.

Silent warfare (*tūshni*) meant the attempt to win over the army and officers of the enemy by diplomatic means. This, like the previous one, was not recognized as a right method to pursue. But it presupposes much of diplomatic skill to be successfully carried out.

Requisites of Success

A few of the chief requisites¹ of successful fighting mentioned are heroic spirit and enthusiasm, superiority in strength, organized troops, weapons and forts, and skilful diplomacy. Kautilya lays these down as in the ascending order of merit. He says:² 'An arrow shot by an archer may or may not kill a person, but the skilful diplomacy of a wise man kills even those

¹ *Arthaśāstra*, p. 337.

² *Ibid.*, p. 375.

एकं हन्यात् न वा हन्यात् इषः क्षिप्तो वृक्षतः ।

प्राज्ञस्तु सतिः क्षिप्तो हन्यात् समस्तानपि ।

unborn.' Great importance is attached to the proper choice of officers, soldiers, places and methods of fighting in all ancient political literature.

Chivalry and Heroism in War

Chivalry was a virtue and the Kshatriyas are praised for their valorous fighting in the battle-field. It was in fact enjoined on all of the fighting caste to engage in righteous war and meet with a noble end. A warrior was never to desist from battle ¹ and his death in bed was a sin.² A king who is defied by foes must not shrink from the duty of giving battle. He who valorously fights is sure to attain to heaven. A Kshatriya would in fact be lacking in the performance of his religious duty and would not acquire religious merit if he did not engage in battle.³ There is nothing more productive of good to the Kshatriya than to be engaged in righteous warfare, even though it might lead to the

¹ E. g., *Baudhāyana*, i. 10, 18 and 19 ; *Manu*, vii. 89.

² *Sukranīti*, iv. 7. 305.

अधर्मः क्षत्रियस्यैव यच्छुभ्यामरणं भवेत् ।

'None should bemoan death in fighting of a valiant Kshatriya' *Ramayana* : Yuddha Kāṇḍa, 112.

³ *Mahabharata* : Śānti : Rājadharmā, 60-62.

destruction of one's own race, says the *Bhagavat Gita*.¹ There are only two classes of people who reach heaven,—‘the austere ascetic and the man who is killed in the front of the fight’.² And for the warrior is reserved a place, much higher than those which Brāhmans attain by performing sacrifices, which he, giving up his life for the right cause, reaches immediately after death.³

The Ideal in Warfare

Once a warrior had entered the battlefield he should fight to the end, bitter though it be. Death rather than disgrace was his motto and as Lowell says, ‘Being in it (battle) the best way was to fight it through.’ He who fights with

¹ ii. 31.

² *Sukranīti*, iv. 7. 317.

द्वौ इमौ पुरुषौ लोके सूर्यमण्डलमेदिनौ ।
परिव्राट् योगयुक्तो यो रणे चाभिमुखं हतः ।

³ *Arthashastra*, p. 365.

यान्यङ्गसंघैः तपसा च विप्राः ।
स्वर्गोष्णिगः पातत्रयश्च यान्ति ।
स्वर्गेन कर्मण्यति यान्ति शूराः ।
प्राणान् विदुषुः परित्यजन्तः ।

utmost energy and does not retreat, goes to heaven.¹ 'The steps of those who, when their ranks are broken, do not turn back, but fight on, are as efficient as so many sacrifices'.² The rascal who flees from a fight goes to hell.³ He who retreats in terror from the field incurs the sin of killing a Brāhman and the gods forsake such a vile coward.⁴ We read in the *Mahābhārata*:—
 'Let us swear to conquer and never to desert one another. Let only such men come as would never turn back from battle or cause their comrades to be slain. The consequences of fleeing away from battle are loss of wealth, infamy, and reproach. Those that flee are wretches among men. We should fight regardless of life or death and with this determination attain a place in heaven'.⁵ He who deserted his

¹ *Sukranīti*, iv. 7. 309.

² E. g., *Agni Purāṇa*, 232. 52-56.

³ *Sukranīti*, iv. 7. 328f.

अपसरति यो युद्धात् जीवितार्थी नराधमः ।

⁴ *Agni Purāṇa*, *op. cit.*

⁵ *Mahābhārata*: *Sānti*: *Rājadharmā*, 100. 33-42.

विजयार्थं हि संग्रामे न त्यक्षामः परस्परं ।

इहैव ते निवर्तन्ता ये च केचन भीरवः ।

न घातयेयुः प्रदरं कुर्वाणास्तु मुले सति ॥

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comrades in the field or retreated after sustaining defeat was allowed no place in society, and in fact denied even the private rights in family life.¹ As regards the king of the Maharāshṭra country Yuan Chwang says : ² ' Whenever a general is despatched on a warlike expedition although he is defeated and his army is destroyed, he is not himself subjected to bodily punishment ; only, he has to exchange his soldier's dress for that of a woman much to his shame and chagrin. So many times these men put themselves to death to avoid such disgrace.'³

अर्थनाशो वधो अकीर्तिः अयशश्च पलायने ।

अमनोज्ञा असुखा वाचः पुरुषस्य पलायतः ॥

मनुष्यापसदा ह्येते ये भवन्ति पराङ्मुखाः ।

ते वयं स्वर्गमिच्छन्तः संग्रामे लज्जंजीविनाः ।

जयन्तो वध्यमाना वा प्राप्नुयाम महदति ॥

Cf. *Bhagavat Gita*, ii.

¹ *Sukranīti*, iv. 7. 11. 614-15.

² Beal, *Life of Hsuen Tsiang*, iv. p. 147.

³ To eat grass was a sign of submission to the enemy, as among the Romans was 'the passing under the yoke' *Bauddhāyana*, i. 10. 18. 11 ; *Gautama*, x. 18.

When the Yavanas were conquered, 'they ate grass and leaped into water'. *Cambridge History of India*, vol. i, p. 270.

War only the Last Resort

Winning victories in wars was glorious for the Kshatriya, and to flee from the field of fighting was worse than death.¹ Yet, it has been repeatedly proclaimed that kings should resort to war only after all other expedients had been tried and found to fail. Only when there was no other remedy was war to be undertaken.² The king should aspire for victories more glorious than those of war. Victories achieved by battles are not spoken of highly by the wise.³ Let the other expedients, *sāma*, *dāna* and *bhēda* be tried in turn, for failure of these alone will justify the employment of *daṇḍa*. If the enemy could not be stopped by the first three methods, let the king bring him to subjection using force alone, says the *Manusmṛiti*.⁴ The ancient Indian

¹ Samudragupta is spoken of as 'skilful in engaging in a hundred battles of various kinds' and his body was covered with the 'marks of a hundred confused wounds, caused by the blows of battle axes, arrows, spears, etc.'

Fleet, *Gupta Inscriptions*, pp. 12 and 13. *The Allahabad Pillar Inscription*.

² *Yājñavalkya*, i. 346, दण्डस्त्वगतिका गतिः ।

³ *Manusmṛiti*, vii. 198. विजेतुं प्रयतेतारो न युद्धेन कदा-
चन ।

⁴ vii. 199-201; *Mahābhārata* : Śānti : Rājadharmā, 68. 25 and 26.

statesmen knew that war entailed unnecessary loss of energy and resources and that from the material standpoint it did not produce good results in proportion to the magnitude of the loss it involved. 'The results of war are uncertain' and it may entail loss to both parties.¹

Consequently, unnecessary and aggressive wars were rare in ancient India. The king was advised to abstain from rash acts of hostility and never seek to destroy his army by recklessly plunging into wars.² In general, wars were not to be waged for mere assertion of material force or for territorial aggrandizement. 'Avoid war for acquisition of territory' appears to have been the principle followed by Yudhishthira. 'Not too ambitious surely of conquest were the ancients, seeing that in a small part of the earth there were numerous monarchs such as Bhagadatta, Dantavakra, Kratha, Karna, Kaurava,

¹ नाशो भवति युद्धेन कदाचिदुभयोरपि. *Kamandakiya*, ix. 61.

युद्धसिद्धिर्हि चञ्चल. *Ramayana: Sundara Kanda*, 46. 15.

As both parties are affected adversely by wars, they are to be avoided. *Manusmriti*, vii. 199. अनित्यो विजयः.

² *Sukraniti*, v. 7.

न नान्यथैव स्वसेनां तु सहसा युद्धमायुक्तः.

Śiśupāla, Salva, Jarāsandha, and Sindhurāja.’ ‘King Yudhishṭhira was easily content since he endured quite near at hand the kingdom of the Kimpurushas when the conquest of Dhanañjaya had made the earth shake’.¹ Generally speaking, kings in ancient India did not engage in war unless they were forced to it; and military expeditions were begun, not on sudden provocation or on small causes but only after great deliberation and on weighty issues. So at least declare the works on Polity—Arthaśāstras and Dharmaśāstras alike.

To sum up, the ideal of the ancient Indians was *not* to engage in war unless all other means of maintaining peace had proved of no avail. But, once on reasonable grounds belligerency was declared, victory was to be achieved at all costs, and death and never dishonour was the motto of the heroic warrior who fought in the field.²

Kūṭa-Yuddha and Prakāśa-Yuddha

The ideal was not by any means easy of realization. The main object of the conqueror

¹ *Harsha Charita*, chap. vii. Translation by Cowell and Thomas.

² Cf. The account of the mercenaries of Massaga given by Diodorus Siculus. (Arrian, iv. 27.)

was to overcome the enemy and sometimes a king had even to 'place disgrace in front and honour at the back and realize his cherished ideal, for it is folly to lose one's objective.'¹ Such was the importance attached to victory in war that 'the enemy has to be subdued whether fought according to the rules of morality or not.'² Instances are not altogether wanting of wars waged on questionable grounds, instances where treachery and guile were now and then in evidence. The Arthaśāstras attach some importance to a variety of warfare which was not fair and open—*Kūṭa-Yuddha*.

The Dharmaśāstras are never for the use of any wily or underhand methods in fighting. *Kūṭa-Yuddha* being dishonourable and unrighteous does not find a place in them. The Arthaśāstras subordinate considerations of morality to those of expediency and practical gain. But even they do not permit *Kūṭa-Yuddha* in all cases, and it was certainly not fair or commendable. It is mentioned merely as a resource for the weak

¹ *Sukranīti*, iv. 7. 11. 732-33.

² *Ibid.*, 1. 350. धर्मयुद्धैः कूटयुद्धैः हन्यादेव सिद्धिं सदा ।

Kūṭa-Yuddha is condemned in the *Rāmāyaṇa* as peculiar to the Rākshasas. Bāla Kāṇḍa, 22. 7; Yuddha Kāṇḍa, 50. 15.

against the powerful. The *Śukranīti*¹ says : ' There is no warfare which extirpates the powerful enemy like the *Kūṭa-Yuddha*; a king need follow *nīti* or moral rules only so long as he is in a position to overcome others.' The *Agni Purāṇa*² permits secret and underhand harassing only by the weaker states. Kāmaṇḍaka who follows Kauṭilya also approves of this variety of warfare only in similar circumstances.

Thus, if *Kūṭa-Yuddha* was resorted to, it was not probably between states of equal strength and resources, but was for states that could find no outside help and had by some means or other to maintain their existence in the midst of overpowering neighbours. Even here, in the first instance, the small states are advised to seek the alliance of stronger ones for fighting against their mighty foes.³ A weak monarch was, as far as possible, to avoid being drawn into war. He should reconcile himself with others,

¹ iv. 7. 1. 725.

Arthaśāstra, p. 364. बलविशिष्टः..... प्रकाशयुद्धं उपेयात् विपर्यये शकटयुद्धं.

² 240. 16.

³ *Arthaśāstra*, p. 306. दुर्बलो राजा बलवताभियुक्तः तद्विशिष्टबलमाश्रयेत् ।

enter into a treaty at least for the time being, waiting for an opportunity to reinforce himself and meet his enemy. If no outside aid was forthcoming, or if in seeking the help of others there was suspicion of evil, the king had no alternative but to engage in war¹ and only in that case was *Kṛta-Yuddha* justifiable.

We find, again, that the employment of guile is advised only against those that use it.² In the *Pratijñāyaugandharāyaṇa* of Bhāsa the minister of Udayana had recourse to guile to set his sovereign free. It was impossible to face king Pradyōta openly in war; hence ruse had to be pitted against the ruse already employed by Pradyōta's ministers. Udayana was captured by Pradyōta's men with a guile corresponding to the Trojan horse trick. Yaugandharāyaṇa, the minister of Kauśāmbi, dressed as a Buddhist monk, went to Ujjain, filled the palace of Avanti with spies and secret agents, and contrived a plan of escape for his sovereign. But

¹ *Manusmṛiti*, vii. 176.

यदि तत्रापि संपश्येत् दोषं संश्रयकावितं ।

सुयुद्धमेव तत्रापि निर्विशङ्कः समाचरेत् ॥

² *Sukraniti*, v. 60.

यच्छत्रपः भवति तस्मिन् चक्षुः समाचरेत् ।

the inevitable happened between Udayana and Vāsavadattā, the princess of Avanti. The two fell in love and the resourceful minister managed somehow to effect the escape of the couple on an elephant.

Theory and Practice

It is because the *Arthaśāstra* subordinates considerations of morality to expediency and practical gain that Kauṭilya has been styled the Indian Machiavelli. The ideal of the Italian theorist, will be clear from his own statement: 'Although it is detestable in everything to use fraud, nevertheless in the conduct of war it is admirable and praiseworthy, and he is commended who overcomes the foe by stratagem equally with him who overcomes him by force.' This is by no means identical with that of Kauṭilya and other Indian writers, for they would on no account give the same place to the *kūṭa* variety of warfare as to the *prakāśa*. Even in the *Arthaśāstras*, *Kūṭa-Yuddha* occupies only a secondary and less honourable place. These naturally give prominent attention to the acquisition of material welfare as the *Dharmaśāstras* do to the spiritual and moral well-being of men and nations. This may lead to the conclusion

that the Arthaśāstras are more Machiavellian than the Dharmaśāstras.¹

On the other hand, the point to be noted in this connection is that the secular writers disclose to us how far the theory propounded in the sacred works of literature corresponded to the practice that obtained in their respective ages. There was no good in ordaining that a weak state should in its fight with a powerful neighbour follow exactly the same rules as were expected to be followed by the latter, and that even he that is wicked should be subdued only by fair means ; we are reminded of the sad lot of Belgium in this connection. It was impossible for the weaker, if left alone, under ordinary circumstances to overcome the more powerful.

*Humanity in Warfare*²

Wars in ancient India were generally fought according to the rules of *Dharma-Yuddha*. It is stated that a king should never desire to subjugate countries by unrighteous means even if he could become, as a result, the sovereign of

¹ The Buddhist and Jaina religious literature may be classified with the Dharmaśāstras. Itihāsas and Purāṇas occupy a middle position, as they deal with both the material and the spiritual side of human activity.

² For details see chap. viii.

the world.¹ The warrior is not to swerve from the eternal law when he strikes in battle.² A Kshatriya who renounces righteousness and transgresses all wholesome barriers does not deserve to be reckoned as such, and society should drive him out.³ The incidents of warfare in ancient India were not so inhuman as in other countries of the world at the time as is clear from the accounts of foreign travellers. Megasthenes⁴ bears testimony to the fact that the laws of war were humane and that wholesale destruction and devastation was forbidden. And we read in the *Mahābhārata*:

‘They must win who strong in virtue
Fight for virtue’s stainless laws ;
Doubly armed the stalwart warrior
Who is armed in righteous cause.’

¹ E. g., *Mahābhārata*: *Sānti*: *Rājadharmā*, 96. 1 and 2-10. Cf. *Bhagavat Gītā*, i. 35.

² E. g., *Yajñavalkya*, i. 326; *Manu*, vii. 87-93; *Gautama*, x. 16; *Baudhāyana*, i. 18. 9; *Vishṇu*, iii.

³ *Sukraniti*, iv. 7. II. 614-15.

रणेष्वकद न कृत्वा ज्ञातिभिः परिवारितः ।

शत्राणां सुविनिर्मितः क्षत्रियो वधमर्हति ।

⁴ McCrindle, *Megasthenes and Arrian*, Frag. i.

CHAPTER VII

ENEMY CHARACTER

Causes of War

WHAT then were the grounds on which wars were begun in ancient India? War was the result of injuries committed by one state on another, and it was declared when a state was attacked and oppressed.¹ Mutual rivalry among the Aryas and non-Aryas formed the cause of wars in the Vedic age. Acquisition of territory and desire for conquest were other grounds for the opening of hostilities. The desire for self-preservation, a disturbance in the balance of power, and the thirst of some major states for realizing the Imperial ideal, appear as other causes of war especially in later ages.² Many of the wars appear to have been caused by lust of territory. Kautilya holds the view that 'the conqueror well-versed in politics who acquires

¹ *Sukraniti*, iv. 7. 250. For causes of war, cf. *Kaman-dakya*, x. 3-5.

² For 'intervention' on grounds of general humanity and fairness and with a view to protect the weaker states see *Sukraniti*, iv. 7. 420.

territory from enemies gains superiority.'¹ Other miscellaneous causes found to operate before the outbreak of war are the stealing of women, cattle, and other property. Lastly, the spirit of *Dharma* was carried to such an extent as to permit a king to wage war with another who, being addicted to pleasure, plundered the people's goods and caused disaffection among his subjects.

Even if the precedent circumstances had made the rupture of peaceful relations between the hostile countries inevitable, at what point was the hostility definitely declared? Was there any formal declaration of hostilities, or was war waged without any formal notice being given?

Declaration of War

Declaration means the formal notification to the effect that a particular state considered itself at war with another state. It may be held that a formal declaration was not quite necessary in ancient India, for war was the outcome of deliberate and prolonged ill-feeling and, as such, the parties that were to be engaged in conflict

¹ *Arthashastra*, p. 293.

एवं विधेभ्यः पृथिवीं लभमानो अर्थशास्त्रवित् ।

संहितेभ्यः परेभ्यश्च विशेषमधिगच्छति ॥

had ever to be prepared to give their soldiers the order for marching. We find, however, that a notification before the outbreak of actual hostilities was in vogue. It is stated that the king before entering the dominions of another he wishes to subjugate should say unto the people : ' I am your king, I shall protect you ; give me just tribute or encounter me in battle '.¹

The practice, it would appear, was also to the same effect. Hanumān was sent to Laṅka to proclaim war against Rāvaṇa. The Pāṇḍavas sent Ulūka and Kṛishṇa to the Kauravas to give notice of the commencement of hostilities, in case the Kauravas would not offer reasonable terms of agreement. In the instances cited above, war was preceded by a formal notification. The seizure of the cattle by the enemy was tantamount to a declaration of war. The Kauravas began the war against the king of Virāṭa with the seizure of his cattle. A third method that was in practice was the lighting up of beacon fires.²

¹ *Mahābhārata* : Śānti : Rājadharmā, 95. 2-3.

ब्रूयादहं वो राजेति रक्षिष्यामि च वः सदा ।

मम धर्मबलिं दत्त किं वा मां प्रतिपत्स्यथ ।

ते चोक्तमागतं तत्र वृष्णीयुः कुशलं भवेत् ।

² *Sacred Books of the East*, vi. 106 and note.

We may hold the view in general that some kind of declaration, formal or informal, almost invariably preceded the wars in ancient India. It was, therefore, in accordance with established usage that Porus interpreted Alexander's summons to do homage and pay tribute, as a formal declaration of hostilities. The result was the battle of the Jhelum, which other chiefs like Ambhi and Abhisāra avoided by timely submission.

Immediate Effects of the Declaration of War

Diplomatic intercourse ceased between the countries engaged in hostilities ; the ambassadors were not allowed to proceed with their duties and had to be withdrawn. In fact, rupture of peaceful relations was preceded by the withdrawal of the diplomatic agents who were charged with the power of issuing an ultimatum in case no peaceful agreement could be arrived at.¹ The embassy of Krishna before the Mahābhārata War is a classical instance in point.

The armed forces of the belligerent states were mobilized and given the warrant to carry on hostilities. The warring parties subjected

¹ *Arthaśāstra*, p. 32. Among the various duties of envoys is the 'issue of ultimatum' (प्रताप) before war.

themselves to all the regulations and incidents of warfare. The accepted rules of fighting now came into force. Non-combatants were exempt, as a rule, from the severities of warfare, and the rules concerning the conduct of the combatants in battle were brought into operation.¹

There were naturally certain restrictions on the freedom of intercourse between the subjects of the enemy states in commercial dealings and other private transactions. 'There was not to be the relation of debtor and creditor between the fighters.'²

Acquisition of Enemy Character by Persons and Property

(a) Persons

Let us consider the conditions which went to give enemy character to persons and property of the countries engaged in hostilities, and note the regulations regarding combatants and non-combatants. When the hostile relations between the

¹ We read in *Vishnūsmṛiti* that a soldier at the time of battle must not be put under restraint. *Sacred Books of the East*, xxxiii. 288.

² *Sukranīti*, iv. 7. 379. ग्राम्यसैनिकयोर्न स्यात् उत्तम-
र्णधिमर्णता । उत्तमर्णधिमर्णता is rendered as शृणुदानव्यवहारः
by the commentator.

states had been declared, the armed forces had been mobilized and actual fighting in the field had commenced, the question was whether all the persons and property found in the enemy state were fully subject to the incidents, rights and obligations in warfare? Was there differential treatment accorded to some? In other words, what were the essential conditions that went to determine the enemy character of persons and property, and what were the criteria that declared others non-combatants and hence exempt from the risks of warfare?

The armed forces of the states at war were enemies in the fullest sense. These might be killed in the course of hostilities. If captured they were held as prisoners of war.¹ They were subject to the usual risks, incidents and severities of warfare. Ordinarily, the various divisions of the army were composed of the fighting castes in ancient India. But it is implied that if any others than of the warrior class took to arms, they also acquired enemy character and could be slain like the Kshatriyas. Even saints and sages were no exceptions to the operation of this rule, as is

¹ This is what Aśoka means by *apavāha* in Rock Edict xiii which narrates the horrors of the Kalinga War:

अविजितं हि विजिनमने ए तता बधं वा मरणं वा अपवाहो वा.

clearly in evidence in the *Bhagavat Gita*. 'The sin of killing a Brāhmaṇa does not pollute a man who treats himself like a Kshatriya and kills the Brāhmaṇa that fights arms in hand and does not leave the field.'¹

In fact, the possession of arms in the field of battle and readiness of any one to fight on the enemy side, were enough to give him enemy character. This aspect of the subject has received careful attention in the *Sukranīti*. The sin of killing even an embryonic child will not affect one, if one finds it with weapon in hand.² The troops left by or captured by the enemy as well as soldiers who had proved unfaithful owing to the machinations of the enemy were also included in the above class of combatants. Next, came the people who helped the enemy with fuel, food and provisions.

¹ *Sukranīti*, iv. 7. 325 and 327.

आततायित्वमापन्नो ब्राह्मणः युद्धवत्स्मृतः ।
उद्यतेषुमथो दृष्ट्वा ब्राह्मणं क्षत्रवन्धुक् ।
यो हन्यात् समरे क्रुद्धं युद्धवन्तमपलायितं ॥

² *Ibid.*, 326.

उद्यम्य शस्त्रमायान्तं भ्रूणमध्यात्तायिनं ।
निहन्त्य भ्रूणहा न स्यात् एवम् ।

Men and animals whose functions were to take weapons, ammunition, fodder, etc., from the stores of the enemy acquired enemy character by the duties they performed, and by the purpose for which they were intended. The family and followers of the king were treated as inimical so far as they contributed to the safe and successful conduct of the operations in the ranks of the enemy. Camp-followers, menial servants and those that were engaged in the work of carrying the wounded from the lines were to be treated as if they were peaceful non-combatants.¹

As regards persons living in the enemy territory, these were on no account to be slain or made prisoners of war as long as they were peaceful and quiet. 'The old man, the infant, the woman and the king when alone (i.e. undefended) should never be killed.'² They were of course subject to such incidental injuries as might be inflicted on them in the course of fighting. They had, it would appear, to meet the occasional demands by the enemy on their

¹ *Manusmṛiti*, vii. 90-94. *Vide* those that were exempted from the general risks and violence of warfare in chap. viii.

² *Sukranīti*, iv. 7. 358.

वृद्धो बालो न हन्तव्यो नैव स्त्री केवलो नृपः ।

wealth and resources—in the shape of what in modern phraseology are known as ‘requisitions’ and ‘contributions.’ A king is permitted to take money from the subjects for the purposes of war and he is justified in seizing the supplies he wants from the places in which he is encamped.¹ The civil population of the places under military occupation were not under ordinary circumstances to be interfered with.

(b) Property

All property belonging to the enemy country such as fighting vessels, arms and ammunitions, weapons and uniforms had full enemy character and were at any time liable to seizure in the course of the war. The treasure, valuables belonging to the king and his family, provisions, food, fuel and fodder and convoys proceeding to the enemy acquired enemy character by the purpose for which they were destined. All immovable properties in the enemy country were subject to temporary utilization by the invader. The following advice is given in the code of Manu : ‘When a king has shut up the enemy in a town, let him sit encamped, harass his kingdom

¹ See for details the section on ‘conquest,’ Chap. II. *Mahabharata*: Sānti : Rājadharmā, 68-38.

and continually spoil his grass, fuel, food and water. He may, likewise destroy the tanks, ramparts and ditches.' ¹

The object evidently was to cut off the supplies of the enemy and to prevent his utilizing the natural resources to his advantage. He might even burn down the crops in the fields.² But the invader was not ordinarily to seize the supplies from the enemy. Only in dire necessity could he make exactions from the enemy people. He should take with him provisions and supplies on the beasts of burden maintained for the purpose. The private property of the enemy country appears in other respects to have been exempt from the violence and risks of warfare.³ Temples and their property in the places under military occupation and the private property of individual citizens were on no account to be seized.⁴

¹ *Manusmriti*, vii. 196. भिन्ध्याच्चैव तडाकानि प्राकारपरि-
खास्तथा ।

² *Mahābhārata* : Śānti : Rājadharmā, 68. 37-43.
In the *Kāmandakīya* we read :—

परसैन्यविनाशार्थं सर्वां भूमिं विनाशयेत् । xvi. 16.

The destruction of the enemy's commissariat is allowed during an expedition. *Arthaśāstra*, p. 354.

³ McCrindle, *Megasthenes and Arrian*, Frag. 1.

⁴ E. g., *Agni Purāṇa*, 236. 22-25.

Enemy Character of Convoys

The consideration as to which of the enemy property acquired enemy character leads us to that of the character of convoys, and of neutral and allied vessels on the seas. In modern international law the views held regarding this subject are seen to depend on (1) nationality or domicile of the owner of the property found in the enemy country, (2) the enemy character or otherwise of the cargo or of the ship and the nature of the flag it flew, and (3) the character of the place to which the property was destined. In ancient India the question of domicile could not have entered at all. But the modern idea that enemy destination is enough to constitute enemy character of a ship with its cargo and of convoys on land appears to have been prevalent in some form in ancient India also. As was noted in the last section, stores and convoys acquired enemy character if they were intended for an enemy destination. The principle of destination held good in the case of sea-borne goods and vessels that plied on the waters belonging to a state. Even the property of neutrals, if it was conveyed to help the enemy or was subject to enemy control.

was liable to seizure. In the *Kautilya*¹ the Superintendent of harbours is endowed with the power of seizing or destroying goods that were being carried to enemy territory (*amitravishaya*). He had also the power of detaining vessels that did not fly their characteristic flag and of seizing the property in them.

¹ p. 126. अमित्रविषयातिगाः (निर्घातयेत्).

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CHAPTER VIII

AGENTS, INSTRUMENTS AND METHODS OF WARFARE

THE fighting was ordinarily done by professional soldiers, drawn from the Kshatriya class, and the best army consisted mainly of these.¹ Besides these agents of warfare who were combatants in the full sense there were others who were included as combatants in virtue of their functions. There were four main divisions of fighters, the *Chatu-ranga*—the infantry, the cavalry, the chariots and the elephants. These enjoyed all the rights and were bound by duties that belonged to combatants in general. The infantry were of various kinds.² The *Maula* (regulars) were composed of the fighting class in India—the Kshatriyas. Others were the *Bhrata* (mercenaries), and *Sreni*, (gild troops) those drawn from the special fighting corporations. In addition to these, recruits

¹ *Arthaśāstra*, p. 256.

² *Ibid.*, p. 340.

were drawn from the allies (*mitra*), sometimes from the enemy country (*amitra*) and from wild tribes (*aṭavi*). These were the people on active military service.¹

There were, next, the people that did not engage themselves in active fighting, but were all the same taken to belong to the enemy ranks. Coming under this class were the camp-followers, nurses, banner-holders, messengers, etc. These were generally exempt from the incidents and violence of warfare.

The whole population engaged in field service was made up of eight parts—chariots, elephants, cavalry, infantry, officers, camp-followers, spies and ensigns.

The *Maula* portion of the army was composed of those that had been well trained and drilled, and had seen active service under state supervision for a long time. They formed the national

¹ The military organization of his time is fully dealt with by Kaṭilya in chaps. ix. and x. of his work. See pp. 340–71. According to Megasthenes the military department of the Mauryan administration consisted of a board of thirty divided into six Committees. (1) Admiralty, (2) Army service, transport and commissariat, (3) Infantry, (4) Cavalry, (5) War-chariots, (6) Elephants. The state encouraged the manufacture of implements of war and of native shipping not only by exemption from taxes but by grant of subsidies. *Megasthenes*, Fragments 35 and 36.

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militia and were entitled to the first rank. Being the 'regulars' they were the most faithful and serviceable part of the army.

The *Bhr̥ita* were soldiers hired for fighting for the occasion. They could not therefore be relied upon, and kings are advised to see that their pay was never left in arrears. Disaffection among these was to be avoided, for they might be bought off by the enemy.

The *Śrēṇi* were a sort of Indian Defence Force. They were not accustomed to fighting for long, and were less quickly mustered together. Not being properly drilled like the *Maula* or the *Bhr̥ita* they corresponded apparently to *Levies en Masse* of the martial races and peoples and were used for short expeditions.

The *mitra* forces were drawn from the allied countries. They could be depended on only so long as the interests of the ally were not prejudiced in the course of the fighting.

Those that were recruited from the hostile (*amitra*) country could not be trusted, for there was no knowing that they would not go over to their sovereign once again. It was not advisable to engage these to bear the brunt of the fight.

The order of merit among these forces is

thus set forth in the *Kautilīya*.¹ 'The standing army (*Maula*) is better than hired (*Bhrīta*) forces inasmuch as the former has its existence dependent on that of its master and is constantly drilled. The hired troops that are ever at hand, ready to rise quickly and are obedient, are better than a corporation of soldiers (*Śrēṇi*). That corporation of soldiers which is native, which has the same end in view (as the king) and which is actuated

¹ See pp. 340-42. Kautilya mentions the various kinds of forces in the order मौल, भृतक, श्रेणी, मित्र, अमित्र and अटवी and says :—पूर्वं पूर्वं चैषां श्रेयः सन्नाहयितुं ।

See also *Kāmaṇḍakīya*, xviii. 4. The order of the ranks of the army in the *Sukranīti* is interesting. The army is divided under two heads. One of the principles of classification is the mode of recruitment, and the other the vehicle used in warfare. Under the first head are :—

1. The *mūla* having been duly trained.
2. The *sādyaska*—trained or untrained—got up for the time.
3. Those drawn from the allies (*mitra*).
4. Those that have deserted the enemy (*amitra*).
5. Those that are bought off from the enemy ranks.

The second included the *Chaturanga* forces.

The *Kāmaṇḍakīya* has मौलभृतं श्रेणि सुहृत् द्विषदाटविकं
बलं । xiv. 6.

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by similar feelings of rivalry, anger, and expectation of success and gain is better than the army of a friend. The army from an enemy country under the leadership of an *Arya* is better than an army of wild tribes.¹ The forest tribes are thus accorded the last rank in the classification for, as in modern warfare, it was observed in ancient

¹ The 'regulars' composed of the Kshatriya class are the best for:—पितृपैतामहो नित्यो वश्यः तुष्टभृतपुत्रदारः प्रवासे-
ष्वविसंवादितः सर्वज्ञाप्रतिहतः दुःखसहः बहुयुद्धस्सर्वयुद्धप्रहरण-
विद्याविशारदः सहवृद्धिक्षयिकत्वादद्वैध्यः क्षत्रपाय—दण्डसंपत्.

तद्भावभावित्वात् नित्यसंस्कारानुगमाच्च मौलबलं भृतबलाच्छ्रेयः ।
नित्यानन्तरं क्षिप्रोत्थायि वश्यं च भृतबलं श्रेणीबलाच्छ्रेयः ।
ज्ञानपदमेकार्थोपगतं तुल्यसंधर्षामर्षसिद्धिर्लभं च श्रेणीबलं
मित्रबलाच्छ्रेयः ।

अपरिमितदेशकालमेकार्थोपगमाच्च मित्रबलाच्छ्रेयः ।

आर्याधिष्ठितं अमित्रबलं अटवीबलाच्छ्रेयः ।

Arthashastra, pp. 256, 342-43.

As regards military recruitment, it would seem that it was voluntary in India. There was the fighting caste and all its members were bound by birth to render voluntary aid to the state in time of war. In Greece, armies were drawn by conscription; while in Italy, the Roman Emperor had to depend on his feudal levies.

India that savage forces were, as far as possible, not to be utilized in active warfare.

Thus the main strength of the army lay in the first class, the 'regulars.' The untrained, inefficient and raw recruits being like bales of cotton could be appointed only for purposes other than actual fighting.¹ Armies were distinguished from one another by special badges and banners and the constituents of an array were called after the names of trumpet sounds, flags and ensigns. Kautilya says: 'One's army is to be distinguished from the enemy's by special flags, badges, kettledrums, conches, etc.'²

From the above it becomes clear that *Levies en Masse* were allowed, but there was no room for 'guerilla fighting.' In fact, guerilla warfare was generally condemned, for it is often declared that everything in warfare was to be conducted in a fair way and by open means.³

¹ *Sukranīti*, iv. 7. 180.

अशिक्षितमसारं च साद्यस्कं तूलवच्च तत् ।

युद्धं विना अन्यकार्येषु योजयेत् मतिमान् सदा ॥

² *Arthaśāstra*, p. 140.

तूर्यचक्रपताकाभिः व्यूहसंज्ञाः प्रकल्पयन्त ।

³ *Manusmṛiti*, vii. 104.

असाध्यैव वर्तेत न कथंचन मायया ।

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The conditions ¹ regarding the agents of warfare in ancient India may then be set forth broadly in the following manner:—

1. Everything in warfare should be fair and open.

2. There should be some distinguishing sign or badge.

3. The efficiency of the army depended on organization, drilling and leadership. The king was the high commander and directly led the army to the battlefield in many cases. In others the work was entrusted to able commanders.

4. All should conform to the regulations of war.²

One class of agents ³ that did not assume enemy character in full, but for whom special treatment was considered necessary, were the spies and secret emissaries. These, it is true, did not bear arms and hence could not be subjected

¹ Compare article ix. of the Geneva Convention regarding the conditions in acceptance in modern times.

² The regulations fall broadly under two classes (a) Preventive and (b) Positive. Under the first head are included all the rules which may have been in observance even among primitive peoples, while the latter are a feature only in a society of an advanced character. The war philosophy in ancient India is made up of both classes of rules.

³ *Vide* also the chapter on 'Diplomatic Agents'—Section on 'Espionage.'

ordinarily to the violence and risks of warfare. But the duties they discharged involved considerable risk. Their function was to observe in secret the enemy movements and know the strength and weakness of the opposite camp. They had to disguise themselves as astrologers, cooks, neutrals, traders, servants or hunters and move about *incognito* in the enemy ranks.¹ The various immunities and privileges of diplomatic ministers could not be extended to them, for the essence of their work lay in secret collection of information regarding the movements of the enemy forces so that their own side might profit thereby. The general rule was that when they were discovered they could be slain.²

The treatment accorded to combatants of the enemy state has differed in different ages. In the age of the *Rig Veda* when there were no advanced notions of intertribal morality, there was even wholesale destruction. In the wars that were fought between the Aryas and the

¹ *Arthaśāstra*, p. 383; *Kāmaṇḍakīya*, xii. 36 and 42.

The various guises mentioned are बालः, कृषोवलो, लिङ्गी,

मिश्रकः, अध्यापकः, जड, मूक, अन्ध, बधिर.

² *Ramayana*: Yuddha Kāṇḍa, 25, 28. Śuka and Sārana are, however, let off.

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Dasyus the opposing parties were only actuated by the desire to extirpate the foe, and the aid of the gods was invoked by the Aryas for the complete subjugation of their foes. 'War was an engine invented by Indra to exterminate the Dasyus, and it was for being destroyed that they were born'.¹ In later ages, the treatment accorded to inhabitants of conquered places was more humane. In the Epics there is clear enunciation of the principles which were to guide the invaders. Here we have certain agreements framed for the combatants corresponding to 'military codes.' This is clear from the *Mahābhārata*² where among the articles of agreement between Yudhishṭhira and Duryōdhana are the following :—

1. We will make war on each other without stratagem or treachery.

2. No man shall take up arms against another without giving him notice.

3. When one is engaged with another, no third man shall interfere.

The Arthasāstras and the Dharmasāstras bear witness to loftier and more humane motives. These contain military rules which bound the

¹ *Mahābhārata*: Udyōga Parva, op. cit.

² *Bhīshma Parva*: Jambūkhaṇḍannirṇāna Parva, op. cit.

belligerent nations of their ages. Not only the Aryas but the non-Aryas appear to have been guided by such noble ideas of international equity. The ancient Indians had highly developed rules to ensure fairness in fighting. It was agreed that only warriors placed in similar circumstances should encounter each other in fair and open combat. A king should fight with a king, a car-warrior with one of his own class, a fighter on an elephant should have as his antagonist one of the same order, a cavalry officer should be met by a cavalry officer, and a foot soldier by a foot soldier.¹

Limits of Violence Permissible

Under ordinary circumstances, the combatants were fully subject to the risks and incidents of warfare. In exceptional cases, these were to be accorded the treatment due to non-combatants and to the peaceful inhabitants in occupied places. Unlimited violence was not to be perpetrated on

¹ *Mahābhārata* : Śānti : Rājadharmā, 95.

See also *Rāmāyana* : Sundara Kāṇḍa, 46. 37. For details of Indian military organization as represented by the Sanskrit epic and other native literature the reader may be referred to Prof. E. W. Hopkins' article on 'The Position of the Ruling Caste in Ancient India' in the *Journal of the American Oriental Society*, vol. xiii, pp. 181-372.

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these ; certain means and methods of destruction were forbidden ; and against Indrajit is hurled the charge that he had violated the rules of fair fighting when he made Lakshmana the target of his poisoned arrow. ' When a king fights with his foes in battle, let him not strike with instruments concealed, with barbed or poisoned weapons the points of which are blazing with fire. ' ¹

Only such instruments were to be used as would barely bring about the disabling of the enemy. Weapons which caused unnecessary pain or which inflicted more suffering than was indispensable to overcome the foe, are condemned by all ancient authorities. Similarly, ruthless destruction and sweeping devastation were forbidden, as is clear from the accounts of Greek travellers as well as from indigenous works of literature. Machines which caused wholesale destruction were of the *very* variety

¹ *Manusmriti*, vii. 90.

न कूटैः आयुधैः हन्यात् वध्यमानो रणे शत्रून् ।

न कर्णमिः नापि दिग्धैः नास्त्रिज्वलितैर्जनैः ।

Baudhāyana, i. 10. 10-12. For instruments used in warfare see *Nīliprakāśika*, chap. II. This work and the *Sakraniti* have been largely drawn upon by Gustav Oppert in his 'Weapons, Army Organization, etc. of the ancient Hindus.'

and were certainly not recommended for use by men in war. 'A king should never slay a large number of his foes, and it did not behove any one to clear all the enemy subjects off the earth.'¹ While enumerating the various methods that may be employed by a conqueror to capture a fortress such as *Upajāpa*, *Upasarpa*, *Vāmana*, *Paryupāsana*, and *Avamardana* corresponding in turn to intrigue, espionage, winning over the enemy's people, siege and assault, Kautilya says:² Setting fire to forts is undesirable;

¹ *Mahābhārata*: Śānti: Rājadharmā, 103. 13.

न सन्निपातः कर्तव्यः सामान्ये विजये सति ।

In the *Rāmāyaṇa* Lakshmaṇa addresses Rāma thus :

एकस्य नापराधेन लोकान् हन्तुं त्वमर्हसि. Āraṇya
Kāṇḍa, 65. 6.

² See *Arthaśāstra*, p. 406 for the methods of capturing a fort.

न त्वेव विद्यमाने पराक्रमे अग्निं अवसृजेत् । अविश्वास्यो
ह्यग्निः दैवपोडनं च अप्रतिसंघातप्राणिधान्यपशुहिरण्यकुप्यद्रव्य-
क्षयकरः । *Arthaśāstra*, p. 403.

Detailed regulations are laid down regarding the time and region of fighting, the functions of the various divisions of the army, the methods, and the uses of the different kinds of arrays, etc., in the *Arthaśāstra*, pp. 338-71.

The battle arrays are eight in number मकर (crocodile), श्येन (bird), सूची (needle), शकट (cart), वज्र (diamond),

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fire offends the Gods ; it cannot be trusted ; it consumes the people, grains, cattle, gold, raw material, etc. Hence incendiarism is to be

सर्वतोभद्र (many-sided), चक्र (wheel) and व्याल (serpent).

Sukranīti, iv. 7. 265-66.

The following varieties of array are noteworthy in the *Arthaśāstra*. See pp. 373-75.

दण्ड (staff), भोग (snake), मण्डल (circle), असंहत (detached). The sub-divisions under these are :—

Under दण्ड—प्रदर (breaking the enemy's array), दृढक (firm), असह्य (irresistible), संजय (victory), विजय (conqueror), स्थूलकर्ण (big ear), विशालविजय (vast victory), चमूमुख (face of the army), झषास्य (fish-faced), and वलय (round). सर्पशरी (serpentine), गोमूत्रिका (long and wavy), वारिपतन्तक (waterfall?) come under भोग.

Under मण्डल are सर्वतोमुख (four-faced), षड्भुज (six-faced), अष्टानोक (eight-faced) and विजयवज्र (many-faced). गोघ (alligator), उद्यानक (park), काकपद (crow's foot), अर्धचन्द्रिक (half-moon, semi-circle), कर्कटवज्र (double-segment?) fall under असंहत.

Other arrays are mentioned depending on the disposition of the चतुरस्र forces.

The *Kāmāditya* (xiv. 49) has

धनुः सङ्घः च दण्डस्य भोगः सङ्घः च

avoided. Dedicating a whole region to flame is certainly an act ungodly and inhuman.

Grant of Quarter

Among the rights which the combatants enjoyed in the field of battle was that of 'quarter.' Quarter was not to be denied, when a combatant force ceased fighting and begged for mercy. 'The wicked that desert the man who seeks refuge

See also *Manu*, vii. 187.

दण्ड, शकट, वराह, मकर, सूची, गरुड ।

Military expeditions are of 5 kinds :—

विगृह्यासन, सन्धायासन, संभूयासन, प्रसङ्गासन, उपेक्षासन ।

Kāmaṇḍakīya, xi.

विगृह्य सन्धाय तथा संभूयाथ प्रसंगतः ।

उपेक्षया च निपुणैः यानं पञ्चविधं स्मृतं ॥

Sukranīti, iv. 7. 255.

The regions suited for military operations are set forth in *Sukranīti*, iv. 7. 227-31.

Among the various agents of warfare, forts held a prominent place. They afforded shelter to the civil population and were strong and convenient bases of military operations against the onslaughts of enemies. The different kinds of forts are :—

घनदुर्ग, महोदुर्ग, अब्दुर्ग, वार्क्षदुर्ग, नृदुर्ग and गिरिदुर्ग

in the ascending order of importance. The features necessary in a fortress are mentioned as spaciousness, difficulty of access, stores, easy ingress and egress.

Sukranīti, iv. 6; *Arthaśāstra*, xiii; *Kāmaṇḍakīya*, iv; *Manu*, vii. 70-75. *Kural*, ii. lxxv.

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with them in confidence reach hell.'¹ The Dharmaśāstras declare that a warrior who solicits quarter saying, 'I am thine, or joining his hands in supplication, may simply be kept in custody but not slain,' and one who does not protect him who seeks shelter perpetrates a mighty iniquity.² Again, combatants under certain conditions were to be exempted from the severities of warfare. 'A warrior whose armour has fallen off, one who has laid down his weapon, or has been wounded mortally, one who is weak with wounds, or is fighting with another should never be killed.'³

¹ *Sukranīti*, iv. 7. 331. शरणागतं सर्वपातकयुक्तमपि रक्षेत् । *Bārhaspatya Arthaśāstra*, iii. 51.

² E.g., *Gautama*, x. 18-20; *Yājñavalkya*, i. 326; *Baudhāyana*, i. 10.

³ For instance *Manusmṛiti*, vii. 91-93. The passages bearing on the subject may be quoted in full.

न च हन्यात्स्थलारुढं न क्लीबं न कृताञ्जलिम् ।

न मुक्तकेशं नासीनं न तवास्मीति वार्त्तिनम् ।

न सुप्तं न विसन्नाहं न नग्नं न निरायुधम् ।

नायुध्यमानं पश्यन्तं न परेण समागतम् ।

नायुधव्यसनप्राप्तं नातं नातिपरिक्षितम् ।

न भोतं न परावृत्तं सतां वर्धमानं स्मरन् ।

See also *Mahabharata*: Santi: Rājāsana: 27-29. *Āpastamba*, ii. 5. 10-11.

Prisoners of War

As regards the combatants who were captured in war, their lot improved from utter destruction and slavery in the initial stages to more humane treatment in later ages. In the age of the Epics, we meet with the practice of captives taken in war being looked after and tended with kindness. If the warrior who had surrendered was wounded, he should be placed in charge of a surgeon. If the wives of soldiers killed in the field were taken captive 'the captor was to keep the women in custody, treating them with all courtesy and consideration. They should be sent home under proper escort, if they be not pleased to stay with him.' ¹

The Sick and the Wounded

There were certain regulations regarding these. The general rule was that those who had been grievously wounded or were exceedingly sick with wounds should be exempted. The wounded were in the first instance to be sent home. If they were prisoners of war, they should be treated by a skilful surgeon and when cured

¹ E.g., *Mahābhārata* : Śānti : Rājadharmā, 96. 5.

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should be set at liberty.¹ Before a king went out to battle he should take with him a good stock of medicines that might prove necessary and physicians to treat and nurse the sick and the wounded in the lines. 'Physicians with surgical instruments (*śastra*), machines (*yantra*), healing oils, and cloth in their hands, and nurses with prepared food and beverage, should stand behind the lines and give encouragement to the fighting men.'²

Treatment of Non-combatants

The non-combatants were ordinarily exempt from personal injury except so far as it might incidentally happen in the course of the warfare, or be inflicted as a punishment for offences committed against the invader. As Megasthenes says,³ the tillers of the soil were allowed to pursue their occupations unmolested even while the war was waging in the neighbourhood and

¹ चिकित्स्यः स्यात् स्वविषये प्राप्यो वा संगृहे भवेत् ।

Mahābhārata : Śānti : Rājadharmā, 95. 12.

² *Arthaśāstra*, p. 367.

चिकित्सकाः शस्त्रयन्त्रागतैर्हव्यैर्हस्ताः चिकित्सन्ति ।

व्यवस्थाणां उद्धर्षणीयाः विद्येयः ।

³ McCrindle, *Megasthenes and his time*, p. 102.

while the combatants made carnage of each other. Brutal vandalism was severely condemned, as is clear again from the words addressed by Rāma to Lakshmaṇa: 'It is not fair to destroy all the enemy subjects for the fault of one,'¹ and only on rare occasions did fortified towns suffer the horrors of a sack. In fact such fields were chosen as sites for battle as were uninhabited or little frequented by the peaceful population. But if the latter rose in arms against the invader, the conqueror might punish them by destroying their crops, stores, grains and trade.²

There is general agreement about the rules for the treatment of non-combatants.³ The following were to be exempted from the severities of warfare:—'Those who look on without taking part in the fight, those afflicted with grief, those who have set their hearts on emancipation, those who are asleep, thirsty or fatigued, or are walking along the road, or have a task on hand unfinished, or are proficient in fine art.' Thus has been declared the majestic

¹ *Ramayana*: Yuddha Kāṇḍa, 80. 38.

² *Arthaśāstra*, p. 402, विषमस्थस्य मुष्टिं सस्यं वा हन्या-
द्विवधप्रसारौ च.

³ *Manusmṛiti*, *op. cit.*; *Mahabharata*: Śānti: Rāja-
dharma, 100: 27-29, *op. cit.*

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eternal law for warriors ; from this law a Kshatriya should not swerve, when he is ranged in battle against his fellows.

One point that is noteworthy here is that people who were engaged in special arts were to be exempted. As in modern international codes, works of religion and fine art, and persons that were employed in dressing the wounded and the sick or were engaged in scientific pursuits were not to be subjected to the risks of war, but special protection was to be given to them. The guardian deities of the country under military occupation should be worshipped by the invaders who should take care that the temples of God and their property were not in any way molested by them.¹ We read of doctors in teams to look after the sick and wounded in war. These were certainly not to be disturbed in the proper discharge of their duties, and were to be assured of special protection. Again, carriers of messages² were among those who were accorded the treatment of non-combatants. Ambassadors, envoys, and other messengers were not to appear from the State, and were to enjoy the immunities and privileges accorded to them in times of peace.

¹ *Agne Purana*, 1. 1. 1. 1.

Enemy Property—on Land

Real property was not to be confiscated. The invader could have the usufruct of such. The instances cited in the *Mahābhārata*¹ of Pratardana who, while engaged in the work of conquest, left the lands of the foe untouched, and of Divōdāsa who seized all property real and movable of the enemy, and hence was considered to have committed an act of sin which deprived him of all the merit of a Kshatriya, are enough to show that the land of the enemy state was to be free from the horrors of war. Property in the territory invaded was not to be seized under ordinary circumstances, but provisions for the army could be taken by the king from the place in which he was encamped and crops in the field might be utilized by him or burnt down so that they might not be of service to the opponent.

Booty appears to have been freely taken in war. This comprised movables taken from the

¹ *Sānti*: Rājadharmā, 96. 20 and 21.

भूमिवर्जं धनं राजा जित्वा राजन्महाहवे ।

अपि चान्नोषधीः शश्वदाजहार प्रवर्त्तनः ।

अग्निहोत्राग्निशेषं च हविर्भोजितमेव च ।

आजहार दिवोदासः ततो विप्रकृतोऽभवत् ।

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enemy on the field of battle in the course of such warlike operations as the capture of a camp or the storming of a fort. The king had general control over all the spoils gained from the enemy. He had the right of examination of the booty secured by his officers and soldiers; ¹ and the best part of the booty was to go to the state. As regards the regulations on the subject, we find that chariots, horses, elephants, umbrellas, riches, grains, cows, women, stores, treasure (*kupya*), all these went to the captors. This implies that what was gained by the soldiery went to them. The Vedas lay down that the king should have all that is best. He should apportion among the soldiers the booty collectively taken.² Gautama holds the view that vehicles, &c., go to the king. On the other hand, the *Manu* has: 'Gold, silver and other booty of captives

¹ *Sukranīti*, iv. 7. 386. 'अथैतानि शत्रुसैन्याः कृतानि वस्तुनि राजा दृष्टवान्'.

दर्शयन्तु मां' says the king.

² *Manusmṛiti*, vi. 95-97.

रथाश्च हस्तिनश्चैव शस्त्राणि च यानि च

सर्वद्रव्याणि संप्रदायात् राजाः संप्रापन्ति

राज्ये दत्तवन्तः सैन्येन चैव यानि च

who wins it.' Women that were captured in the course of fighting were to be given chivalrous treatment, and were to be sent to their place under adequate protection. The king was to divide the spoils among his soldiers according to their efficiency in fighting.¹

Enemy Property—at Sea

The enemy character of vessels was determined by their destination. Whether they be of friendly or of neutral states, if they were intended to afford help to the enemy they were liable to seizure. The Superintendent of Harbours, as the *Arthaśāstra*² says, had the right to stop or detain merchantmen as well as enemy vessels to discover if these or the goods they carried were contraband. He could seize and destroy those ships that were passing by his harbour on their way to an enemy country. This right implied probably what in modern times is known as the 'right of search.' Pirate vessels were liable to destruction. The term which denotes a pirate ship in the

¹ *Gautama*, x. 20-23; *Manu*, vii. 97. In the *Vishnu-smṛiti* we read that a sixth part of the booty should go to the king. *Sacred Books of the East*, xxxiii. 341.

² p. 128. निर्गच्छतामुद्रस्य भाण्डं हरेयुः

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Arthaśāstra is *Himsrikā*.¹ Thus ships of piracy on the coasts and such of the vessels and the property they contained as were destined to a hostile country were liable to be searched and seized. What we know of the Malabar Coast from the Greek writers and from tradition bears out what we have just cited from the Sanskrit sources. Pliny notes that the seas here were infested with pirates, and Ptolemy describes the *Ariake Andron Peiration* as extending from Nitrias which Pliny places near Cranganore, as far north as Mandagara in the Canarese country. This part of the coast comprises what is known as *Yavanavalanādu* in the *Śāṅgam* texts, of which Eḷimala in North Malabar was the capital. The custom of the country was that all ships bound for the place should be treated with due consideration and should not be made to suffer in any way. It is interesting that such humane principles were in force even in a country professedly the stronghold of piracy. The main point of difference was that as against the humane injunctions laid down by Kauṭilya, the pirates seem to have taken inhuman advantage of the troubles of the

¹ *Arthaśāstra*, p. 126. *Śāstra*, *Śāstra*, *Śāstra*.

vessels not destined for their country, but driven ashore by stress of weather.

A ship was allowed a reasonable period of stay in the harbour, after which she was sent away. In the case of vessels subjected to bad weather or troubled on the waters 'the Superintendent was to lend them the helping hand of a father.' If the weather cleared up and danger was over they were allowed to set sail.¹

The principle of the restoration to the original owners of property recaptured at sea from the enemy was not altogether unknown. There is at least one instance of this. Aśōka is said to have restored the property that had been recaptured from the pirates at sea to the respective owners.²

The *Purapporulvenbāmālai*, a work probably of the Śāṅgam age, contains elaborate rules regarding the military organization, the laws of war, and the instruments and methods of fighting among the ancient Tamils. The principles of warfare evident in the first eight chapters of the work are noteworthy as being in some respects

¹ *Arthaśāstra*, p. 126. मूढवाताहतां तां पितेव ह्यनुगृह्णीयात् तथा निर्दिष्टाश्चैताः पण्यपत्तनयात्राकालेषु प्रेषयेत् ।

² *Vide Bodhisatvāvadāna Kālpalātā* of Kshemendra cited in R. K. Mookerjee's *Indian Shipping*, pp. 113-14.

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similar to those in acceptance among the nations of North India.¹ We read that cattle-lifting was one of the causes of war. The Tamils understood well the horrors of war, and warfare was not commenced unless they were forced to it. The various divisions of the army are described, besides banners and drums, swords and spears, bows and arrows. 'Warriors perish not; they acquire undying fame, though they lay down their lives in the battle-field.' The South Indian peoples knew the methods of besieging a fortress, as well as of fighting in open plain. Spies in war are mentioned. Devastation of whole regions was not unknown. After the war the spoils were distributed by the king among the successful soldiers according to their merit. Though the vanquished enemy was compelled to pay tribute to the conqueror, some of the principles of equity that characterized conquests in North India are in evidence among South Indian nations as well.

¹ The first two chapters deal with raids for the seizure of cattle, and the preliminaries to actual fighting. The third and the fourth describe the actual invasion of the enemy territory with the army composed of the traditional four-fold divisions. Chapters five and six give an account of the siege of forts and methods of defensive fighting. The seventh chapter gives the rules for offensive fighting and the general duties of warriors. The eighth prescribes some of the rules of conduct.

CHAPTER IX

TERMINATION OF WAR

WARS were brought to an end when the belligerent states had achieved their end by treaty or one of them had been completely subjugated. They generally resulted in the conquest and acquisition of the territory invaded. A treaty of peace put an end to the dispute between the contracting states, and when peace was concluded, it was understood that hostilities should not be resumed for the old purpose. The results¹ aimed at in war were increase of territory, acquisition of allies and the gain of treasure. The warring states that had concluded the treaty became allies and continued their peaceful intercourse. The cessation of war revived in general all the private rights that the belligerent states had exercised in normal times. The restrictions imposed on them by the declaration of war were removed, and

¹ *Hitopadesa*. Vighraha, viii. 64.

When the advantages derived from war and peace are equal, peace is advised by Kautilya for the results of war are :—

there could be 'the relation of debtor and creditor between the conquerors and the conquered.'

Peace

The circumstances under which a king might sue for peace are clearly set forth in the *Arthaśāstra*.¹ Before a peace is agreed upon, the hostile kings should consider well the issues which actuate the desire for peace on either side, and enter into the agreement only if it be productive of good results. But a king who had been beaten and whose resources were getting exhausted is advised to seek peace lest he should lose more, and 'whoever has reason to think that in course of time his loss may be less than his gain as contrasted with that of his enemy need not mind his temporary humiliation.'² Warring kings were to conclude peace as soon as the time was ripe for achieving the ends they had in view. Similarly, if they found that they could realise only equal gain in equal time, peace is advised. For in this case a

¹ p. 284.

आदौ बुध्येत पणितः पराजितोऽप्यसौ

ततो वितर्क्य मय्यते युद्धं यथा विना युद्धं

² *Arthaśāstra*, p. 284.

येषु विपरीतं भवेत् तदा युद्धं न कर्तव्यम्

condition resulted when no party could claim to have definitely beaten the other. This rule applied to kings who were 'deteriorating' as well as to those that were in a 'stationary' condition.¹

Kautilya considers only *that* as peace (*Sandhi*) in which the profit that accrued to the contracting parties whether of similar, superior or inferior power, was equal to both alike.² In other words, *Sandhi* was treaty on equal terms. When the terms of the contract were unequal and when one of the parties got an advantage over the other, there was defeat for the latter (*vikrama*). In this we have the fundamental point of distinction between *sama* and *hina Sandhi*.

Characteristics of Treaties of Peace

A treaty has been defined as what bound sovereigns in faith to one another.³ The move-

¹ *Arthaśāstra*, p. 262. तुल्यकालफलोदयायां वृद्धौ सन्धिमुपेयात्

तुल्यकालफलोदये वा क्षये सन्धिमुपेयात्
तुल्यकालफलोदये वा स्थाने सन्धिमुपेयात्.

² *Ibid.*, p. 277. समसाम्ये सन्धिः । वैषम्ये विक्रमः ।

³ *Ibid.*, pp. 261, 311. 'सन्धिं विश्वासोपायः'. शम, सन्धि and समाधि are different names denoting a 'treaty.'

ments by which two powerful foes became friendly constituted peace.¹ A treaty generally depended for its observance on the sworn word of honour (*satyaśapatha*). Securities (*pratibhūh*) and hostages (*pratigraha*) were demanded in cases of doubtful intention.² As we see from the *Sukranīti*,³ sureties were demanded according to the strength of the adversary. Sometimes a king had to bind himself to do some service and even to part with his children, wealth and property. Ascetics and nobles were demanded as securities to avoid the breach of treaty obligations. In cases where there was the fear of breach of honesty, one party exacted from the other an oath by fire, water or the sword.⁴ According

¹ *Sukranīti*, iv. 7. 235. याभिः क्रियन्ति सन्धिः

याति वै रिपुः । सा क्रिया सन्धिरित्युक्ता

² *Arthaśāstra*, p. 311.

³ iv. 7. 242.

शत्रोर्बलानुसारेण उपहारं प्रकल्पयेत् ।

सेवां वापि च लोकुषीत । अन्तः प्रकल्पयेत् ।

⁴ *Arthaśāstra*, p. 312. तदा क्रियते सन्धिः सन्धिः सन्धिः

प्राकारकोष्ठं स्तिष्ठत्युपहृतं । अन्तः प्रकल्पयेत् ।

न्यालेभिरे ।

to the older teachers, says Kauṭilya,¹ a treaty of the second and third classes was considered stable (*sthāvāra*), while one of honour was unstable (*chala*). The *Sukraniti* lays down that without sureties there could be no (good) form of agreement.² Kauṭilya, however, holds the view that a treaty depending on *satyaśapatha* was more permanent, for it was helpful not only on this earth but in the world beyond, unlike the latter which served only worldly ends.³

Duration of Treaties

A treaty was in force until the object for which it was made had been realized and the conditions stated therein had been fulfilled. In alliances and treaties between unequal powers, the weaker states were placed in a less advantageous position and, if there was a breach of the terms, they had to suffer heavier penalties. Violation of treaty obligations proved one of the causes of war. The defaulter state not only incurred the odium of

¹ *Arthashastra*, p. 311.

² *iv.* 7. 241.

उपहास्यते तस्मात् सन्धिरन्यो न विद्यते ।

³ *Arthashastra*, p. 311. सुखं वा शपथो वा परस्त्रे च स्यात्-
सन्धिः इत्यर्थ एव प्रतिमः प्रतिग्रहो वा बलप्रेक्षः ।

being untrue to its word, the most serious violation of the *Dharma* and therefore a great stigma that it was not *satyavrata*, but was blotted out of existence by a combination of the other powers to protect the cause of the right. Securities were considered necessary, for, as Kautilya¹ observes with his usual shrewdness, the state whose power was rapidly increasing might at any time break the terms of the agreement. In this connection we are reminded of the spirit with which agreements and treaties have been safeguarded by some of the European nations of to-day. It is a sad feature that the high sounding guarantees of safety and security should be regarded as no more valuable than scraps of paper exactly in those cases where their observance is most necessary. Breaches of the terms of agreements are very rare in ancient India. But in the case of loans depending on promises to pay interest or money, there was the possibility of the borrower falling in arrears, due to some cause or other, the parties and the consequences of default were a consequence. Where the lender was a private individual

involving too much strain on the resources of the weaker state, the promise was likely to remain unfulfilled. In these cases a reasonable extension of time was allowed. There was next the possibility of the evasion of the terms of the agreement, under the 'plea of loss of results from works undertaken.'¹

Kinds of Treaties

We have now to note the various kinds of treaties that terminated wars in India. Kauṭilya² mentions quite a large number of them. They have been roughly classified under :—

- (1) *Dandōpanata*—offering the army,
- (2) *Kṣōpanata*— „ treasure,
- (3) *Dēśōpanata*— „ territory,
- (4) *Suvarṇa*—amicably settled peace with honour.

(1) Under *Dandōpanata* are mentioned :—

(a) *Ātmāmisha*.—'Agreement on the understanding that with a section of the army

¹ *Arthaśāstra*, p. 269.

² *Ibid.*, pp. 268 and 269. In the *Kāmaṇḍakīya* mention is made of sixteen kinds of treaties :—

कपालः, उपहारः, सन्तानः, सङ्गतः, उपन्यासः, प्रतीकारः,
संयोगः, पुरुषान्तरः, अदृष्टनरः, आदिष्ट, आत्मामिष, उपग्रहः,
परिक्रयः, उच्छिन्नः, परिमूषणः, स्कन्धोपनेयः.

or with the flower of his troops the sovereign should surrender himself.'

(b) *Purushāntara*.—'That made on the condition that the commander of the army and the crown prince should present themselves.' This did not require the attendance of the king.

(c) *Adrishṭapurusha*.—'The one made on the agreement that the king or some one else deputed by him should march with the army to some fixed place as required.' This form was conducive to the safety of the king and the army.

(2) Under *Kōśōpanata* are :—

(a) *Parikraya*.—'When by the offer of wealth the rest of the elements of sovereignty are saved.'

(b) *Upagraha*.—'When peace is concluded by offer of money which could easily be carried on one's shoulders.' (*Skandhōpanata*).

(c) *Kapāla*.—'When by offering a large amount of money peace is concluded.'

(3) *Dēśōpanata* has the following sub-heads :—

(a) *Ādishṭa*.—'When by cession of a part of territory the rest of it is saved.'

(b) *Uchchanna*.—'When peace is concluded by offer of resources.'

(c) *Avakraya*.—‘ By which the land is set free on the understanding that the yield will be made over to the conqueror.’

(d) *Paribhūṣaṇa*.—‘ Agreement to pay more than the land could yield.’

(4) *Suvarṇa*.—‘ When between the parties making the treaty there is the amicable union of hearts.’

Suvarṇa was in all respects the most desirable form of peace-making. Whereas the other forms depended on promises to cede wealth, land or forces, in the last the cessation of hostilities depended merely on the word of honour of both the parties.

Temporary Cessation of Hostilities

Before war was formally brought to a close by conquest or by treaty, provision was made for temporary cessation of hostilities, corresponding to truces and armistices. When the belligerents were exhausted and felt they could not continue effective fighting, there was the laying down of arms, the fighting to be resumed later.¹ This

¹ *Sukranīti*, iv. 7. 288.

अरेश्च विजिगीषोश्च विग्रहे हीयमानयोः ।

सन्धाय यदवस्थानं संधायास्तनमुच्यते ॥

state was known as *sandhāya Āsana* or truce. The agreement in the course of fighting temporarily to refrain from causing injuries to each other was known as *Adrōha* (armistice). These meant abstention from acts of war and might be taken to be preliminary to the final peace.¹

Conquest

Conquest is the permanent absorption of all or part of the territory of a defeated enemy. Kautilya² divides conquerors under three heads (1) *just* (2) *greedy* (3) *demonlike*. The just conqueror was satisfied with mere allegiance. The greedy had an eye solely on profit in land and money; and the last was not satisfied with mere submission, or even with the surrender of persons and property but wanted to take away the very life of the enemy. But the rules that Kautilya has laid down, agreeably to those formulated by other lawgivers disclose to us the very nature of

¹ *Sukranīti*, iv. 7. 249. It is stated in the *Śukranīti* that Indra killed Vritra during an armistice. *Śukranīti*, ix. 53.

² *Arthashastra*, p. 380.

तेषां अथवा

निरूपणं

निरूपणं

of humanity and kindness that should characterize all conquests.

The conquest of a country resulted in the reduction of its population to the position of subjects of the conqueror, but the latter had to identify his own prosperity with that of the people conquered always holding *Dharma* in high esteem.¹

After conquest the king is advised to realize the revenues, satisfy the subjects and protect them like children; ² worship the gods, honour righteous Brāhmaṇas, grant exemptions and proclaim safety and security to the new subjects. 'Let him make the lawful customs of the

¹ *Arthaśāstra*, p. 407. The following extracts on the treatment of the borderers from the *Edict of Aśoka* are interesting in this connection :—

'If you ask, "with regard to the unsubdued borderers what is the king's commands to us? or what truth it is that I desire the borderers to grasp," the answer is that the king desires that they should not be afraid of me, that they should trust me and should receive from me happiness and not sorrow.' Moreover they should grasp the truth that 'the king will bear patiently with us so far as it is possible to bear with us.' Now you, acting accordingly, must do your work, and must make these people trust me and grasp the truth that 'the king is to us even as a father; he loves us even as he loves himself; we are to the king even as his children.' Smith, *Aśoka*, p. 177.

² *Sukraniti*, iv. 7. 374.

तत्पजाः पुत्रवत्सवीः पाक्योतात्मसाकृताः ।

inhabitants¹ of the conquered places authoritative'. 'He shall not suppress the established laws and usage, for, only if the conqueror is just and perseveres with the policy of reconciliation will his new subjects be loyal'.² He should replace the enemy's vices by his own virtues, and improve upon his example in all things good and great, by strictly observing his own duties, attending to his work, granting rewards, remitting taxes, and bestowing honours on those that deserved them. He should be led by the friends and leaders of the people, and adopt the same mode of life, the same dress, language and customs as those of the conquered. He should, as Aśōka proclaims in his edicts, show large-hearted religious toleration and

¹ *Manusmriti*, vii. 201.

जित्वा संपूजयेद्देवान् ब्राह्मणांश्चैव धार्मिकान् ।

प्रदद्यात् परिहारांश्च ख्यापयेदमयानि च ।

Ramāyana : Āraṇya Kāṇḍa, 9. 28. देशधर्मस्तु पूज्यन्ते ।

² *Arthashastra*, p. 311.

स्वभूमिषु च राजानः तस्मात् सामानुपायिनः ।

भवन्त्यनुगुणा राज्ञः पुत्रपौत्रानुवर्तिनः ।

The policy of non-interference with the customs of the conquered people is in evidence in an inscription of the Ganga King Avinīta who is said to have protected the South by maintaining the castes and religious orders of the country conquered. *Epigraphia Carnatica*, vol. x, p. 132.

unlike Aśoka, ¹ desist from interference in their national, religious and social festivals and amusements. Having abolished the customs which might be either unlawful or injurious to the growth of his revenue and his army he should establish righteous transactions. ² He should

¹ The reference is to Rock Edict, ix.

² The whole section bearing on the subject of conquest may be quoted from Kauṭilya in full. *Arthaśāstra*, pp. 406-7.

नवमवाप्य लम्भं परदोषान् स्वगुणैश्छादयेत् । गुणान् गुणद्वै-
गुण्येन स्वधर्मकर्मानुग्रहपरिहारदानमानकर्मभिश्च प्रकृतिप्रियहितान्य-
नुवर्तेत । यथासम्भाषितं च कृत्यपक्षमुपग्राहयेत् । भूयश्च कृतप्रया-
सम् । अविश्वास्यो हि विसंवादकस्त्वेषां परेषां च भवति; प्रकृति-
विरुद्धाचारश्च । तस्मात् समानशीलवेषभाषाचारतामुपगच्छेत् । देश-
देवतसमाजोत्सवविहारेषु च भक्तिमनुवर्तेत । देशग्रामजातिसङ्घ-
मुख्येषु चाभोक्षणं सत्रिणः परस्यापचारं दर्शयेयुः । महाभाग्यं भक्तिं
च तेषु स्वामिनः स्वामिसत्कारं च विद्यमानम् । उचितैश्चैनान् भोग-
परिहाररक्षावेक्षणैः मुञ्जीत सर्वताश्रमपूजनं च विद्यावाक्यधर्मशूरपु-
रुषाणां च भूभिद्रव्यदानपरिहारान् कारयेत् । सर्वबन्धनमोक्षणमनु-
ग्रहं दीनानाथव्याधितानां च ।यच्च
कोशदण्डोपवातिकं अधर्मिष्टं वा चरितं मन्येत, तदपनीय धर्मव्यव-
हारं स्थापयेत् । चौर्यकृतीनां म्लेच्छजातीनां च स्थानत्रिपर्यासमने-
कस्य कारयेत् । दुर्गसंघट्टणमुह्यानां च परोपगृहीतानां च मन्त्रि-

observe the local customs, laws and practices in the conquered kingdom ¹ of course keeping in mind that it would be a loss to him if he undertook work which might be expensive but not productive of greater profit and power for himself.²

Treatment of Persons in Conquered Territory

The conqueror should never covet the lands, property, sons and wives of those slain by him, but should reinstate in their own estates

पुरोहितादीनां परस्य प्रत्यन्तेष्वनेकस्थं वासं कारयेत् । अपकास-
मर्थाननुक्षियतो वा भर्तृविनाशमुपांशुदण्डेन प्रशमयेत् । स्वदेशी-
यान्वा परेण वाऽवरुद्धानपबाहितस्थानेषु स्थापयेत् । यश्च तत्कुलीनां
प्रत्यादेयमादातुं शक्तः प्रत्यन्ताटवीस्थः वा प्रबाधितमभिजातः, तस्य
विगुणां भूमिं प्रयच्छेत् । गुणवत्याश्चतुर्भागां वा । शोचदण्डेन
मवस्थाप्य यदुपकुर्वाणः पौरजानपदान् कोपयेत्, कुपितेति शिरसा
येत् । प्रकृतिभिरपक्रुष्टमपनयेत् । औषधातिके वा देहे निवेद्य
येदिति ।

चरित्रमकृतं धर्म्यं कृतं चान्यैः प्रवर्तयेत् ।

प्रवर्तयेन्न चाधर्म्यं कृतं चान्यैः निवर्तयेत् ।

¹ *Yajñavalkya*, I. 343; *Viṣṇu*, III. 26.

² *Arthaśāstra*, p. 299.

तस्मादस्य व्यवहारं दृष्ट्वा हि नृपः सदा विचार्य

कर्म कृत्वा विजिह्वः स्यात् । अथवा नृपः सदा विचार्य

the relatives of the fallen.¹ He should instal in the kingdom the heir apparent of the previous king, as otherwise the neighbours and ministers of the state might be driven to appeal for help to the 'circle of states'.² Princes deprived of their land and title should be continued in their places if they be well-behaved, but punished if wicked.³ He should continue the old form of government to which the people had been for long accustomed. In case there be the possibility of the old kingly line becoming extinct he might bring one from a royal family elsewhere.⁴ If the dispossessed sovereign was found unfit to rule or for other reasons could not be reinstated, he was to be given liberal pension, in keeping with his royal state. In order that the old king may continue with his honours and dignity he should be given a fair amount for his maintenance; half

¹ *Arthaśāstra*, p. 310. न च हतस्य भूमिद्रव्यपुत्रदारान-
मिमन्येत । कुल्यानप्यस्य स्वेषु पात्रेषु स्थापयेत् ।

² *Vishnu*, iii. 30. *Arthaśāstra*, *op. cit.*, p. 311. मृतस्य पुत्रं
राज्ये स्थापयेत् । *Manu*, vii. 202.

³ *Sukraniti*, iv. 7. 401. प्राङ्मानैः यदि सदृत्तान् दुर्वृत्तास्तु
प्रपीडयेत्.

⁴ *Vishvasmṛiti*, iii. 31 and 49.

of it might go to the crown prince ; a fourth to the queen ; a fourth to each of the other princes if well-behaved, but only a thirty-second part if ill-behaved ; and the rest might be enjoyed by the conqueror himself.¹ He should fulfil the promises that he may have made in the course of the war, and give rewards to those who deserted the enemy for his cause.² He should also administer just laws, and publish the offence for which he might punish his people. He should not levy illegal taxes but continue the old customary ones, and remit those that may be considered burdensome. Such measures ought to be devised as would ensure the people the security of person and property. Prisoners of war were to be set free, for the condition of war was gone and the conqueror ought to exercise a sort of ' paternal interference ' to relieve the distress of the people.

¹ *Sukraniti*, iv. 7. 397-98.

परयद्धे हत्वे दद्यात् सुतिं मित्रादिभ्यः ।

दद्यादद्धा तस्य पुत्रे स्त्रिये पादसिद्धिं मित्रे ।

इतराज्यस्य पुत्रादौ सप्तगुणे पादसिद्धिम् ।

दद्याद्वा तद्राज्यतस्तु दानविनाशोऽपराधकम् ।

See *Mahabharata* : Sabha Parva, 10-11.
pensions to widows of fallen soldiers.

² *Arthashastra*, p. 406.

and the oppressed.¹ He should introduce order and settlement in the conquered territory without giving rise to discontent or dissatisfaction. He should ensure the safety of his own position, get rid of malcontents by judicious treatment, and by a policy of conciliation engender a sentiment of loyalty to himself, his sons and grandsons.² Like a father he should protect those who were promised security from fear, and punish the guilty after due investigation. Learned men, orators, charitable and valiant people should be favoured with gifts of land, money and remission of taxes. Undesirable elements in the population should not be kept in the same place and for a long period of time. Thieving classes, dacoits and barbarians should be forced to leave their habitations, scattered far and wide, and subjected to close surveillance. Such of the enemy officers as were in charge of the forts, the army, and the rural tracts, and one's own ministers and priests found to be in conspiracy with the enemy, should also be segregated and kept in distant and

¹ In the *Mudrārākṣhasa* we read that prisoners were released by Kauṭilya after conquests were effected by Chandragupta.

² *Arthashastra*, p. 311.

एवमस्य दण्डोपनताः पुत्रपौत्रानुवर्तन्ते ।

different places. The newly acquired territory was also made the habitation of renegades, discontented people and conspirators, who were compelled to reside in remote corners. The territory conquered served therefore as a kind of penal settlement. Members of the enemy's family capable of wresting the conquered territory should be provided with a sterile portion of it, or with a fourth part of the fertile tract, on condition of their agreeing to give a large amount of tribute and a fixed number of troops. The hope was that in raising these they might incur the displeasure of the people and be destroyed by them. He should secure his own position by all means and prevent formidable members of the old royal family from becoming rebellious and dangerous. In all disputes the conqueror is advised to help the weaker party with men and money against the strong, so that he might ingratiate himself with the populace. Severe penalties were inflicted for treachery to safeguard against the possibility of revolt or betrayal.²

¹ Authorities for the above are given in the text quoted in note 2, p. 176.

² *Arthashastra*, pp. 376, 377.

The Allahabad pillar inscription of Samudragupta shows how far these rules were in actual observance. Harisēna tells us that the fallen families were re-established on the throne, and that the treatment of the conquered varied in different cases. The kings of *Dakshināpatha* were 'captured and liberated'; the 'forest kings' were 'violently exterminated' and impressed into the service of the emperor; the frontier kings took the oath of fealty, paid tributes, and carried out orders, by which the emperor was 'fully gratified'; and even the foreign dynasties in India had their ruling chieftains restored when they surrendered, and the imperial flag flew in their dominions.

Treatment of Conquered Property

The treatment of property in the conquered territory is also seen to depend on the same principles of benevolence and justice. Ordinarily, the conqueror had only the right of the usufruct of immovable property, and he was to spare religious institutions and works of fine art. He was allowed the right to enjoy the revenues of the new kingdom, to impose lawful taxes on the people and remit undesirable

ones.¹ The instance cited in the *Mahābhārata* will be enough to show that the spoliation of the new kingdom brought on with it several evil consequences. Pratardana left the land of the conquered kingdom untouched, and he was the type of a righteous conqueror. On the other hand, Divōdāsa brought away with him all that he could lay his hands upon, and he certainly did not deserve to be ranked with the former.² Similarly, as regards permanent structures in the conquered country we read that 'the conqueror should not demolish the forts or gateways.' Temples and other religious foundations were to be left untouched.³

¹ *Sukranīti*, iv. 7. 373.

विजित्य च रिपून्नेवं समादद्यात् करं तथा ।

राज्यांशं वा सर्वराज्यं नन्दयेत् ततः प्रजाः ।

² In India the position of the peasants was practically unaffected by conquest. The land of the conquered was not seized and divided among the conquerors. The conqueror was satisfied with the tax from the land which had fallen to him. Whereas among the Greeks and Romans and the mediaeval European peoples there was the reduction of the agricultural population to the position of villeins and serfs as a result of conquest, in India the peasants were left in possession of their traditional rights and allowed to continue with their agricultural operations so long as they paid the tax to the conquering king with their tribute.

³ *Vishnu*, iii. 33.

The case was however different with regard to movable property. The conqueror had the right to the revenues that accrued from land as well as the other property of the state. He had *full* powers over movable property. And we read in *Manusmṛiti* ¹ :—The seizure of desirable property and its proper distribution are both recommended, for, though the former may cause displeasure, the latter is bound to produce joy. The conqueror is permitted to have all the produce of the mines, ² and appropriate the curiosities and merchandise peculiar to his enemy's country and unknown elsewhere. ³

¹ vii. 204.

² *Vishṇusmṛiti*, iii. 35.

³ *Arthasāstra*, p. 353. शत्रुप्रख्यातं वा पण्यमविज्ञातं विजिगीषुं

गच्छेत् ।

CHAPTER X

NEUTRALITY

‘IT deserves to be remarked,’ says Wheaton,¹ ‘that there are no words in the Greek or the Latin language which precisely answer to the English expressions, neutral and neutrality. The cause of this deficiency is obvious. (According to the laws of war, observed even by the most civilized nations of antiquity, the right of a state to remain at peace, while her neighbours were engaged in war, was not admitted to exist. [He who was not an ally was an enemy and as no intermediate relation was known,] so no word had been invented to express such relation. It may be held that the above remark is to a large extent applicable to ancient India as well.] But it is true that as in Greece or Rome, no intermediate relation was known in ancient India, and the conception of *Mandala* at least, and kinds of intermediary relationships are not known. These are the results of variations in the idea of either *Ari* or *Mitra*. Nor could the concept

that in our land 'there are no words which precisely answer to the English expressions neutral and neutrality.' Of the various attitudes of a king *Āsana* is recognized by Kauṭilya to denote the state of being a neutral, and terms are not wanting in ancient Indian literature to denote what corresponds to a neutral king,—*Madhyama* and *Udāsīna*.¹ It is true, however, that neutrality is not treated as a special department of statecraft in the same manner as war, peace, or diplomacy. It was not a common attitude, and hence the regulations about neutrality are rare. The only writer who deals with the subject at any length is Kauṭilya.

The causes for the absence of elaborate rules regarding neutral states are obvious. Wars in ancient India were commenced only on reasonable and sufficient grounds and only after all the other expedients of *sāma*, *dāna* and *bhēda* had proved futile. The violation of *Dharma* was a

¹ *Udāsīna* is neutral and there is only a shade of difference between *Udāsīna* and *Madhyama* in the *Arthaśāstra*. See also *Manusmṛiti*, vii. 155 and 158.

The contempt with which the ancient Indians looked upon breach of neutral rights is in evidence in the conversation between Vāli and Rāma. Vāli says:—

उदासीनेषु योस्मासु विक्रमस्ते प्रकाशितः. *Ramayana*: Kishkindha Kāṇḍa, 17. 44.

serious crime, and if one of the belligerent states had transgressed the general rules of righteous conduct, it was looked down upon by others as deserving destruction. Where, however, it was deemed that the acts of both the belligerents could be justified, all the other states ranged themselves with the one or the other. Hence, only two attitudes are *frequently* met with.

From the account given by Kautilya¹ of the description, the rights and obligations of a *Madhyama* and *Udāsīna* we are not able to distinguish clearly between these two types of kings.

Udāsīna and Madhyama

Udāsīna has been thus defined by Kautilya² :—
‘He who is situated beyond the territory of any of the kings, viz., *Ari*, *Vijigishu* and *Madhyama*, who is very powerful and capable of helping the enemy, the conqueror and the *Madhyama* king, jointly or severally, or of resisting them individually, is a neutral king.’

¹ *Arthaśāstra*, pp. 315-19.

² *Ibid.*, p. 259.

बलवत्तरः संहतासंहतानां

समर्थः निग्रहे चासंहतानामुदासीनः

and 19.

Elsewhere he says: 'indifference is neutrality' ¹ and it is an attitude assumed by a king who thinks, 'My enemy cannot hurt me, nor am I strong enough to destroy my enemy.' It is thus seen that the *Udāsīna* king was outside the pale of 'enemy,' 'conqueror' and *Madhyama*. He may have the strength to help or resist any of these, but the essential feature of his position lay in abstinence from hostilities. Thirdly, it becomes clear from the above description that it was safe for one who was not sufficiently powerful as compared to any of the belligerent nations, to assume the 'neutral' attitude.

A *Madhyama* king, according to Kauṭilya, ² was in a position to afford help to both the belligerents, or dissuade one of them from invasion. 'The conduct of the *Madhyama* explains that of the *Udāsīna*,' ³ and apparently there was only a slight difference between them. The term *Madhyama* is, however, to be distinguished from

¹ *Arthaśāstra*, p. 261. उपेक्षणमासन्नं "नमां परो नाहं परं अपहन्तुं शक्तः".

² *Ibid.*, p. 259. अरिविजिगीष्वोः भूम्यन्तरः संहतासंहतयोः अनुग्रहसमर्थः निग्रहे चासंहतयोः मध्यमः ।

³ *Ibid.*, p. 317. मध्यमचरितेन उदासीनचरितं व्याख्यातं ।

Udāsīna, for the latter is not included in any of the three categories of kings *Ari*, *Mitra* and *Madhyama*. In fact, the word indicates an attitude of passive indifference to hostilities; while the *Madhyama*¹ was interested in both the belligerents and might contemplate active intervention, not, of course, to the benefit or injury of any of the belligerents, but to bring about, if possible, the cessation of hostilities. He might act as the 'mediator.' Again, it is interesting to observe that the invasion of a *Madhyama* king's territory was allowed under certain circumstances, while the very condition of neutrality of the *Udāsīna* entitled him ordinarily to immunities from the injuries of war. For we find, 'If the circle of states is favourable to the cause of a conqueror, then he may aggrandize himself by putting down the *Madhyama*.' This shows that the action against the *Madhyama* was generally looked upon as an act of aggrandizement.²

Next, the circumstances in which a king was classified as an *Udāsīna* or a *Madhyama* indicate

¹ The sense is brought out clearly by Śaṅkara in his commentary on the *Bhagavat Gīta* (vi. 9).

उदासीनः न कस्यचित्पक्षं भजते, मध्यस्थो यो विरुद्धयोः

उभयोः हितैषी ।

² *Art. 316* p. 316.

to us another point of difference between the two. ' If a king thinks, " Neither is my enemy strong enough to destroy my works nor am I his ; or if he comes to fight with me like a dog with a boar, I can increase his afflictions without incurring any loss in my own work," then he may observe neutrality.' ¹ This implies that neutrality is a policy of non-intervention imposed upon himself by the ruler in question, even though, as the above statement indicates, he may be more powerful than his enemy. Abstention from hostilities is thus an essential feature of an *Udāsīna*.

It is not necessarily a characteristic of the *Madhyama*, for the possibility is shown of his becoming too strong and aggressive and preparing himself for hostilities ; for we find it stated:— ' This *Madhyama* king has grown haughty and is aiming at our destruction. Let us therefore combine and interrupt his march '.² In the above the condition is suggested that the *Madhyama* was not to grow beyond certain limits, and his immunity vanished when he had grown formidable and aggressive. Lastly, unlike the case of the

¹ *Arthaśāstra*, p. 264.

² *Ibid.*, p. 316. " अतिप्रवृद्धोयं मध्यमः सर्वेषां नः विनाशाय अभ्युद्धितः संभूयास्य यात्रां विहनाम."

Udāsīna whose attitude was held to be one of absolute indifference, it is specially stated with reference to the *Madhyama* that he was expected to treat both the belligerents on equal terms and only if 'he shows equal favour to both parties is the king advised to be friendly with him'.¹ The *Udāsīna* on the other hand should always observe neutrality, when, either in peace or in war he finds neither loss to others nor gain to himself.²

Would the above discussion lend itself to the view that by an *Udāsīna* Kauṭilya meant a neutral king, while the term *Madhyama*, to put it in the modern technical language, referred to a king whose state was 'neutralized' permanently or temporarily? Perhaps, the best instance of the latter conception is found in the part played by Balarāma in the *Mahābhārata*.

Aspects of Neutrality

Neutrality (*Āsana*), says the *Śukranīti*³ is 'the attitude by which a king by being indifferent

¹ *Arthaśāstra*, p. 315. तच्चेदुभयं मध्यमः अनुगृह्णीयात्, विजिगोषुर्मध्यमानुलोमः स्यात् ।

² *Ibid.*, p. 264.

³ iv. 7. 237. स्वरक्षणं शत्रुनाशो भवेत् स्थानात् तदासनं ।

affords protection to himself, as well as brings about the destruction of the enemy.' It is suggested that a king should assume the position of a neutral, not only because he was unaffected by the course of the war, but that he might not strain his resources by unnecessarily engaging in hostilities. Especially was it advisable when there was the hope for him that, the odds being great against his own rival, there was fair chance of his being defeated even without his interference. A neutral king was thus to abstain from all acts of warfare, as a matter of policy.

But the indifference and abstention might be due to different causes. A king might be powerful enough to enter into the war, and change the course of hostilities; yet he might adopt a neutral policy, for he might feel that his fortune would be unaffected by the war. Or, a king too weak fearing the destruction of his own resources might not be prepared to entangle himself, and so might be a neutral.

Four main classes of neutrals appear to be in evidence in the *Mahābhārata*.¹ These were

¹ I am indebted for this suggestion to Mr. Mitra's 'War Philosophy—Ancient and Modern' in the *Hibbert Journal* for 1916. See *Arthashastra*, pp. 270–71.

actuated by different motives, and the neutrality was due to different causes :

(1) Neutrals whose position could not but be affected by the course and results of the war.

(2) Neutrals whose fortunes were practically unaffected by the course of the struggle.

(3) Neutrals who might be affected by the war, and who could, if they chose, change the course of the war by manipulating economic forces, etc.

(4) Neutrals who were powerless to enter into the war, though their fortunes might be affected by the war.

Corresponding to the various motives that lead to neutrality, we have different aspects of non-intervention. The following ¹ are mentioned by Kauṭilya :— *Sthāna* (keeping quiet), *Āsana* (withdrawal from hostilities) and *Upēkshana* (negligence). *Sthāna* was the *status quo ante* kept by a ruler who did not want his position to be affected in the course of belligerency. When the king kept quiet maintaining one fixed line of policy there was the *Sthāna* aspect. ² *Āsana* was neutrality proper. There was here the 'withdrawal from hostilities,' in one's own

¹ *Arthaśāstra*, p. 270.

² *Ibid.*, गुणैकदेशे स्थानम्.

interest. It may be that by interfering in the war the neutral king might change the fortunes of the parties. But he preferred to be indifferent, for, by such attitude, his interests were safeguarded. It would be inadvisable for a king to launch into war when he found that even otherwise there was chance of his purpose being achieved.

Upēkshana meant taking no steps to safeguard one's position against the enemy. Such negligence would, no doubt, entail discomfiture and defeat at the hands of the foe. It was an unpardonable offence on the part of a true Kshatriya, and would only argue that he was too weak and depended on the mercy of others for continuing with his integrity and independence. This is simply despicable, being the mark of a coward.

It is apparent from the above classification that *Sthāna* and *Upēkshana* were undesirable aspects of *Āsana*. The former is unhealthy in any progressive state; and the latter is to be avoided in all cases by a valorous Kshatriya king.

Neutral Rights and Obligations

The claim of every nation to continue with its rights of sovereignty in peace could not ordinarily be questioned. The general rights and duties in times of peace are found applicable to

neutral states in a period of war. They were allowed to enjoy those privileges in relation to independence, jurisdiction, equality, property and diplomacy which have been dealt with in the chapters on peace. But the fact should not be lost sight of that the neutral might not be wholly unaffected by the course of hostilities. It is true that the attitude of the *Udāsīna* meant that the particular king was practically unconcerned with the war. The justice or injustice of the hostile operations should not in virtue of his position as neutral alter his attitude; for, otherwise, he would become an ally of one of the belligerents. But it is not impossible—with whatever care he might use his rights and under whatever restrictions—that in the exercise of his powers as a neutral, his interests might incidentally come into conflict with those of the belligerents. Even in matters that had no direct bearing on the war, for instance, the conduct of trade with other nations or the manipulation of economic forces, it might so happen that it was not always possible for the neutral to be altogether impartial. Absolute neutrality is more or less an ideal conception. Again, a neutral might be prepared for fighting, though he should abstain from hostilities. The neutral position would come to an end only when

the neutral had begun to arm himself and cast in his lot with one of the belligerents. He might assume the attitude of an 'armed neutral' ready at an opportune moment to enter into the war and change if possible the fortune of the hostile parties. Preparedness for fighting alone was not enough for the recognition of belligerency. In fact, 'armed neutrality' was not uncommon, for we read that a neutral may be prepared and yet keep quiet.¹

A good instance in point is the position of the Kadamba king Kākutstha Varman as evident from the Tālagunda pillar inscription. He is described as possessing the three-fold prowess, but yet as maintaining neutrality and on that account feared by mighty neighbours.²

¹ “यदा वा पश्येत् स्वदण्डैर्मित्राटवीदण्डैर्वा समं ज्यायांसं वा कर्शयितुमुत्सहे ” कृतबाह्याभ्यन्तरकृत्यः विगृह्यासीत्.

“उत्साहयुक्ता मे प्रकृतयः संहता विवृद्धास्वकर्मणि अव्याहताश्चरिष्यन्ति, परस्य वा कर्मणि उपहनिष्यन्ति ” इति तदा विगृह्यासीत् • *Arthaśāstra*, p. 270.

² तं दैवसंपन्नमदीनचेष्टं शक्तित्रयोपेतमथासनस्थम् ।

शैबैर्गुणैः पञ्चभिरप्यसाध्याः सामन्तचूडामणयः प्रणोमुः ॥

Epigraphia Indica, vol. vii, No. 5. 1. 13.

' *Contraband* '

Under ordinary circumstances, the neutral was allowed to deal in merchandise of general use. This trade could not be prohibited by the belligerents ; but the carriage of such of the articles as might prove to help on the progress of one of the parties had certainly to be considered as falling under the ' rule of contraband.' The belligerents should be allowed the power to deal with such of the neutral goods as might be considered ' contraband of war.' The characteristics which determined contraband in ancient India were the quality of the goods and the nature of their destination.¹ Goods that were styled as *śatruṣṭhakaḥ*, i.e., those that went to increase the strength of the enemy were classified as contraband.²

In this class were included food, fodder and provisions. The seizure of them is advised that they might not serve to add to the resources of the enemy or enable him to prolong the duration of hostilities. Thus, among the various articles of contraband which were liable to seizure were

¹ See *supra*, chap. iii. and *Arthaśāstra*, ii. ' नावध्यक्ष'.

² *Sukranīti*, iv. 7. 286. तृणाज्जलसंभारा ये चान्ये शत्रु

food, fodder, water, fuel and other goods that might prove useful to the enemy. In the *Arthaśāstra* it is stated that those that were suspected of carrying weapons and explosives should be arrested, for these articles were contraband to the full.¹ From this it is clear that the neutral trade in certain commodities with either of the enemies might be construed as violating the rules of neutrality, and thus be liable to be stopped.

A second characteristic that determined contraband goods was their destination. Goods and convoys that proceeded to the camp of the enemy were liable to seizure. Enemy destination was the test of enemy character. The same rule held good in the case of sea-borne goods. In the *Kautilīya* the officer in charge of the harbours is endowed with power to seize or destroy such of the goods as were being carried to a hostile country. Under ordinary circumstances, the ships of neutrals were subject to the duties and privileges that pertained to them in times of peace. As regards the relation of the goods to the ships that conveyed them, it may be held that the principle of 'enemy ships, enemy

¹ गूढसारभाण्डशासनशस्त्राग्नियोगं.....उपग्राहयेत्.

Arthaśāstra, p. 127.

goods,' was applicable in ancient India though not its counterpart 'free ships, free goods.' Generally, if the ship was hostile the cargo also was hostile.

Neutral Vessels

Neutral vessels were allowed a stipulated period of stay in the harbour, and allowed some privileges as they were subject to certain responsibilities. They were liable to be searched and to be destroyed, if they were discovered to contain cargo destined to an enemy post. The following rules¹ are noteworthy regarding the conduct of ships, the tolls they had to pay, their rights and duties, and their liability for seizure and destruction:—

¹ *Arthashastra*, pp. 126-28.

पत्तनाध्यक्षनिबन्धं पण्यपत्तनचारित्रं नावध्यक्षः पालयेत् ।

संयातीनविः क्षेतानुगताः शुल्कं याचेत ।

हिंस्रिका निर्घातयेत् ।

अमित्तविषयातिगाः पण्यपत्तनचारित्रोपघातिकाश्च ।

गूढसारभाण्डशासनशस्त्राग्नियोगं.....उपग्राहयेत् ।

निर्गच्छत्तथ्यामुद्रस्य भाण्डं हरेयुः ।

उदकप्राप्तं पण्यं अशुल्कं अर्द्धशुल्कं वा कुर्यात् ।

पण्यपत्तनयात्राकालेषु प्रेषयेत् ।

मूढवाताहतां तां पितेव अनुगृह्णीयात् ।

The Superintendent of ships had to observe the regulations prevalent in trading towns as well as the orders of the Superintendent of port towns. All ships that passed along the coasts and alighted at harbours were to pay tolls. Pirate ships were to be seized and destroyed. The same treatment was to be meted out to ships that were destined to a hostile country and to those that violated the rules in sea-port towns. Persons known to convey a secret mission or carry weapons or explosives should be arrested by the Port officers. The cargo of merchantmen that did not put on their peculiar ensign or flag was to be seized, but ships that were spoilt by water were to be allowed some concession in customs duties. They were to be permitted to set sail when the sea was calm and the weather had cleared up. Vessels that were drifted ashore by storms on the sea were to be treated by the Superintendent of ships with paternal care and affection.

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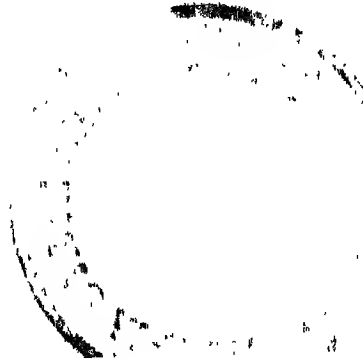
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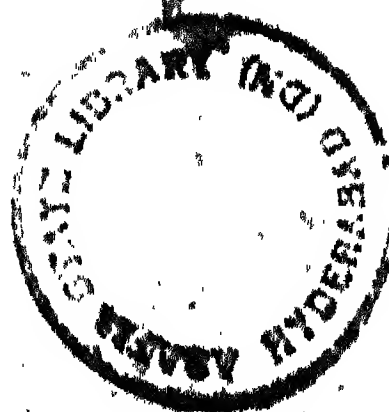
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